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PROVINCIAL STATUTES

OF

CANADA,

5469

ENACTED by Her Most Excellent Majesty, our Sovereign LADY VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth years of Her Majesty's Reign, intituled, "*An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

VOL. II. 2nd Sess. 2nd Part.



MONTREAL:

PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,

LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY,

Anno Domini, 1846.

L12386

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YRABU GORNA

PROVINCIAL STATUTES

or

CANADA.

ANNO REGNI NONO

VICTORIÆ,

DEI GRATIÂ, BRITANNIARUM REGINÆ.

HIS EXCELLENCY THE RIGHT HONORABLE

CHARLES MURRAY, EARL CATHCART, K. C. B.,

GOVERNOR GENERAL.

**BEING THE SECOND SESSION OF THE SECOND PROVINCIAL PARLIAMENT
OF CANADA.**

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ANNO NONO
VICTORIÆ REGINÆ.

CAP. I.

An Act to alter and amend the Laws imposing Provincial Duties of Customs.

[18th May, 1846.]

WHEREAS it is expedient to encourage the transport of Foreign Produce through the Canals of this Province, and to make certain changes in the Duties of Customs now imposed: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to Re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so soon as any Act shall be passed during this year, by the Imperial Parliament, altering the Laws regulating the importation of Wheat, Maize and other grain into the United Kingdom, it shall be lawful for the Governor of this Province by Proclamation to make known the same; and that the third Section of this Act, and every matter and thing contained therein, and the Schedule hereunto annexed, marked A, shall, and they are hereby enacted and declared to be in force upon, from and after the day of the date of such Proclamation, and not before.

Preamble.

Certain parts of this Act to take effect only after the passing of an Imperial Act.

II. And be it enacted, That upon, from and after the day of the date of such Proclamation, the Act of the Parliament of this Province, passed in the sixth year of Her Majesty's Reign, intituled, *An Act to impose a duty on Foreign Wheat imported into this Province*; and also so much of an Act passed in the last Session of this Parliament, intituled, *An Act for granting Provincial Duties of Customs*, as relates to the duties on Maize or Indian Corn, shall be, and the same are hereby repealed, and that in lieu thereof, and of all other Duties of Customs imposed by any Provincial Act on such articles, there shall be raised, levied, collected and paid unto Her Majesty, Her Heirs and Successors, upon the articles mentioned in the Schedule A, to this Act annexed, the several duties of Customs respectively inserted, described and set forth therein.

6 Vict. c. 31, and part of 8 Vict. c. 3, repealed upon this Act going into effect.

III. And be it enacted, That Foreign Wheat imported into this Province for exportation, or to be ground for exportation, and Foreign Maize or Indian Corn imported into this Province for exportation, may be imported without payment of any

Foreign Wheat and Maize may be bonded for exportation.

any duty under this Act, at such Ports within this Province, and subject to such regulations, either by payment of duties in the first instance, and subsequent return thereof, or by bonds being given, conditioned for the exportation of such Wheat, or the Flour made therefrom, or of any Maize or Indian Corn, as the Governor in Council shall from time to time make and appoint for the purpose of preventing any Wheat, Maize or Indian Corn so imported into this Province, from being used or consumed therein without payment of duty.

Duties on articles in Schedule B., repealed.

IV. And be it enacted, That from and after the passing of this Act, instead of all other Duties of Customs imposed by any Provincial Act on such articles, there shall be raised, levied, collected and paid unto Her Majesty, Her Heirs and Successors upon the several articles named in the Schedule B, to this Act annexed, the several Duties of Customs respectively inserted, described and set forth in the said Schedule: Provided always, that nothing in this Act contained shall extend to repeal any tonnage duty, or any duty except such as is imposed on the articles in the said Schedules A and B set forth.

Under what regulations duties hereby imposed shall be collected.

V. And be it enacted, That the duties by this Act imposed, shall be deemed to be duties within the meaning of the Act passed during the last Session of this Parliament, and intituled, *An Act to provide for the management of the Customs and of matters relating to the Collection of the Provincial Revenue*, subject to the provisions of which Act, and of this Act, the said duties shall be ascertained, raised, levied, collected, paid and recovered under the same provisions of law as duties on like articles now are ascertained, raised, levied, collected, paid and recovered, and until some other Act or Acts shall be passed for the general regulation of the Customs, in which case all the duties hereby imposed shall be ascertained, raised, levied, collected, paid and recovered under the provisions of such Act or Acts.

Duties how applied and accounted for.

VI. And be it enacted, That all sums of money which shall arise from the duties hereby imposed shall be paid to the Receiver General by the Collectors and other Officers and persons by whom the same shall have been received, and shall form part of the Consolidated Revenue Fund of the Province, and shall be accounted for to Her Majesty, Her Heirs and Successors through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall be pleased to direct.

Duties payable in Sterling money, and weights and measures to be Imperial.

VII. And be it enacted, That all sums of money which shall arise from the duties hereby imposed and set forth in words and figures in the Schedules to this Act shall be sterling money, and payable in such coins as may be lawfully current in this Province and equivalent to the amount of sterling money to which such duties may amount in any case; and the weights and measures in the said Schedules mentioned and set forth shall be the Imperial weights and measures now by law established in the United Kingdom of Great Britain and Ireland; and in all cases where the said duties are imposed according to any specific quantity or any specific value, the same shall be deemed to apply in the same proportion to any greater or less quantity or value.

Said provisions, etc.,

VIII. And be it enacted, That all Foreign Wheat, or salted or cured meat, for the use of the Fisheries in the Gulf of St. Lawrence, shall be free of duty, subject to

to such regulations as may from time to time be made by the Governor of this Province in Council, for the purpose of ascertaining that such articles are *bonâ fide* intended to be applied to the use of such Fisheries.

for the Fisheries exempted from duty.

IX. And be it enacted, That so much of the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to continue for a limited time the duties imposed on Agricultural Produce and Live Stock imported into this Province*, as now remains in force, shall be and is hereby continued and made permanent.

Part of 7 Vict. c. 2 made permanent.

X. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present session of the Legislature.

Act may be amended this Session.

SCHEDULE A.

Each Imperial quarter of Foreign Wheat, not intended for exportation, or to be ground into flour and the flour exported, three shillings.

Each quarter (of four hundred and eighty pounds weight) of Maize or Indian Corn, not intended for exportation, three shillings.

SCHEDULE B.

Muscovado and Clayed Sugar, Bastard Sugar, and all other Sugars not refined, per hundred weight, seven shillings and six pence.

Dye woods of all kinds, one *per centum ad valorem*.

Leather, or Leather Manufactures imported by sea, or inland from any British Possession in North America, five *per centum ad valorem*.

UPON THE FOLLOWING ARTICLES IMPORTED OTHERWISE THAN BY SEA, OR INLAND FROM ANY BRITISH POSSESSION IN NORTH AMERICA :

Goat Skins, tanned, tawed or in any other way dressed, per dozen, five shillings.

Lamb or Sheep Skins, tanned, tawed or in any way dressed, per dozen, two shillings and six pence.

Calf Skins, tanned, tawed or in any way dressed, per pound, four pence.

Kip Skins, tanned, tawed or in any way dressed, per pound, two pence.

Harness Leather, Upper Leather, and Sole Leather, per pound, one penny and one half penny.

Leather cut into Shapes, per pound, four pence.

LEATHER

LEATHER MANUFACTURES.

Womens' Boots, Shoes and Calashes of Leather, per dozen pairs, five shillings.

Womens' Boots and Shoes, of Silk, Satin, Jean, or other Stuffs, Kid or Morocco, per dozen pairs, five shillings.

Girls' Boots, Shoes and Calashes of Leather, under seven inches in length, per dozen pairs, two shillings.

Girls' Boots and Shoes, of Silk, Satin, Jean or other Stuffs, Kid or Morocco, per dozen pairs, two shillings.

Mens' Boots, per pair, two shillings.

Mens' Shoes, per pair, six pence.

Boys' Boots, under eight inches in length, per pair, nine pence.

Boys' Shoes, under eight inches in length, per pair, four pence.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. II.

An Act to repeal certain Acts therein mentioned, and to impose a Duty on Distillers and on the Spirituous Liquors made by them, and to provide for the Collection of such Duties.

[18th May, 1846.]

WHEREAS it is expedient to repeal the Laws in force in this Province, imposing duties on Distillers and on Stills, and providing for the collection of such duties, and to make other provisions in that behalf, by one law applicable to the whole Province of Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to impose a duty upon Distilleries in that part of the Province heretofore called Lower Canada*,—and the Act of the said Legislature, passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to repeal an Act of the present Session relative to the duties on Stills, and to make further provision on the same subject*,—and the Act of the Legislature of Upper Canada, passed in the thirty-fourth year of the Reign of King George the Third, and intituled, *An Act to levy and collect a duty upon Stills*,—and the Act of the said Legislature passed in the forty-third year of the Reign last aforesaid, and intituled, *An Act for the better securing to His Majesty, His Heirs and Successors, the due collection and receipt of certain duties therein mentioned*,—and the Act of the said Legislature, passed in the forty-fourth year of the Reign last aforesaid, and intituled, *An Act to explain and amend an Act passed in the forty-third year of His Majesty's Reign, and intituled, 'An Act for the better securing to His Majesty, His Heirs and Successors, the due collection and receipt of certain duties therein mentioned'*,—and the Act of the said Legislature, passed in the fourth year of the Reign of King George the Fourth, and intituled, *An Act prescribing the mode of measuring the contents of Wooden Stills; also, fixing the duty to be paid on all Stills used for the distillation of Spirituous Liquors within this Province*;—and the Act of the said Legislature, passed in the third year of Her Majesty's Reign, and intituled, *An Act to authorize certain duties to be imposed* and

Preamble.

Certain Acts
cited, viz :
Canada 4 & 5
Vict. c. 31.
Canada, 8
Vict. c. 29.

U. C.
34 Geo. 3. c.
11.

U. C.
43 Geo. 3. c.
9. Stills, &c.

U. C.
41 Geo. 3. c. 7.
Stills, &c.

U. C.
4 Geo. 4. c. 13.

U. C.
3 Vict. c. 19.

The said Acts and other provisions of law inconsistent with this Act repealed.

*and collected on Wooden Stills within this Province, and for other purposes therein mentioned,—*and so much of any other Act or provision of law as imposes any duty on Distillers or Stills, or makes any provision for the levying of such duty, or as may be in any wise repugnant to or inconsistent with the provisions of this Act, (except only such parts of the said Acts as repeal any prior Act or law,) shall be and are hereby repealed upon, from and after the day when this Act shall come into force and effect; save and except that all duties accrued or to accrue before the day last mentioned under any of the Acts or laws so to be repealed, shall be paid and may be recovered, and bonds given under the same for any such duties or for any other purpose, shall remain in force, and all penalties and forfeitures incurred under the same may be sued for, recovered and levied, as if this Act had not been passed.

None but persons licensed under this Act to act as Distillers.

Penalty.

II. And be it enacted, That no person other than a person licensed in the manner hereinafter provided, shall act as a Distiller in this Province, or shall distil, brew, manufacture, rectify, or make therein any spirits or strong waters, or other spirituous liquors, from malt, grain, potatoes, mangel-wurzel, or other vegetable, or from molasses, sugar, or other saccharine matter, under a penalty of Ten Pounds, currency, for each day on which any such offence shall be committed, and on pain also of forfeiting over and above the penalty aforesaid, all spirits, strong waters, or spirituous liquors, distilled, brewed, manufactured or made, in contravention to this Act, and each and every still, mash-tub, fermenting-tun, or other vessel, machinery, or utensil of any kind used by him, or being in his possession or on his premises.

District Inspector to issue Licenses.

Duration of License and duty thereon.

III. And be it enacted, That it shall be the duty of the District Inspector for any Revenue District, to issue a License to act as a Distiller, in some certain premises, situate at some certain place within such Revenue District, and to be described in the License, to any person or partnership of persons, who being a subject or subjects of Her Majesty resident or having his or their place of business in such Revenue District, and having previously complied with the requirements of this Act in that behalf, shall require the same; and each such License shall remain in force until the fifth day of January, inclusive, next after the date thereof, and no longer; and the party in whose favor the same shall be granted shall, on requiring such License, pay to the District Inspector issuing the same, the sum of Ten Pounds, currency, as a duty to Her Majesty upon such License.

No License granted but on a written requisition.

IV. And be it enacted, That no License to act as a Distiller shall be granted to any party, under the authority of this Act, except on a written requisition addressed to the District Inspector, and signed by the party requiring such License, or if it be required by a partnership, then by one of the partners.

Two pence per gallon duty on all Spirits made in the Province.

V. And whereas it is right that the further duty paid by each Distiller should be proportionate to the quantity of spirits manufactured by him, as nearly as it can be made so without the introduction of inconvenient restrictions and regulations: Be it therefore enacted, That all such spirits, strong waters, and spirituous liquors as aforesaid, lawfully distilled, manufactured or made within this Province after this Act shall come into force, shall be and are hereby declared to be respectively subject to the duty to Her Majesty hereinafter mentioned, that is to say:—On every gallon,

gallon, Imperial measure, of spirits or strong waters, or spirituous liquors of any kind, not exceeding the strength of proof by Sykes' Hydrometer, and so in proportion for any greater or less strength than the strength of proof, and for any greater or less quantity than a gallon, two pence ; and such duties shall be paid by the party distilling, manufacturing or making such spirits, strong waters or spirituous liquors, to the District Inspector, in the manner hereinafter mentioned : Provided always, that such duty shall not be again payable on any spirits or strong waters which, having paid duty in this Province, or having been made therein before this Act shall be in force, shall be re-distilled by a licensed Distiller, for the purpose of rectification or otherwise.

Proviso, as to re-distillation.

VI. And be it enacted, That no License shall be granted to any party under the authority of this Act, until such party shall jointly and severally, with two good and sufficient sureties, to the satisfaction of the District Inspector issuing the same, have entered into a bond to Her Majesty, Her Heirs and Successors, in a sum equal to double the amount at which the said District Inspector shall estimate the duties to be paid by the party to whom the License is granted, during three-fourths of the time it is to remain in force ; and such bond shall be taken before the said District Inspector, and shall be conditioned for the rendering of all accounts, and the payment of all duties and penalties, which the party to whom the License shall be granted shall become liable to render or pay, under the provisions of this Act, and that such party will faithfully comply with the enactments and requirements thereof, according to their true intent and meaning, as well with regard to such accounts, duties and penalties, as to all other matters and things whatsoever ; and the said bond shall be kept by the District Inspector.

Parties obtaining License to give a bond to Her Majesty.

VII. And be it enacted, That the bond aforesaid shall remain in force so long as any duties imposed by this Act upon any spirits or strong waters or spirituous liquors, distilled, manufactured or made, while the License to which the bond relates shall be in force, or any penalty incurred during the said time by any breach of the conditions of the bond, shall remain due and unpaid by the party to whom such License shall have been granted ; but whenever any new License shall be granted to any party, a new bond shall be likewise entered into with reference to such new License ; and a new bond shall also be given, whenever, during the period for which the License to which it relates shall be in force, either of the sureties shall die, become insolvent, or remove permanently out of the Province, in any of which cases the License shall be void from the time the party shall be required by the District Inspector to enter into a new bond until the time when such new bond shall be given, during which time the party neglecting to enter into such new bond shall be held to be without a License.

During what time the bond shall remain in force.

VIII. And be it enacted, That every party licensed as a Distiller shall have his name and calling as such inscribed in legible characters, and exposed on some conspicuous part of the front of the building or premises in which such calling shall be exercised, under a penalty of Five Pounds, currency, for each day on which he shall exercise such calling without complying with the requirements of this section.

The names and calling of Distillers to be inscribed on front of the building.

Certain books
to be kept by
the Distillers
and open to the
District In-
spector.

IX. And be it enacted, That each and every person, licensed as a Distiller under this Act, shall keep a book or books in a form to be furnished from time to time by the District Inspector, and to be open at all seasonable hours to his inspection, wherein such Distiller shall enter, from day to day, the quantities of grain or other vegetable production, or other substance, put by him into the mash-tub, or otherwise used by him for the purpose of producing beer or wash, or consumed by him in any way for the purpose of producing spirits, strong waters or spirituous liquors, or otherwise disposed of, and also the quantity of spirits, spirituous liquors or strong waters by him distilled, manufactured or made, shewing the quantity produced at each separate time, if there shall have been any distinct set or sets of operations by reason of which duties shall have become payable ; and for any wilful false entry, or any wilful neglect to make any entry hereby required, the Distiller shall incur a penalty of Fifty Pounds, currency ; and it shall at all times be lawful for the District Inspector to demand to be shown all the stock of such grain, vegetable production, or other substance aforesaid, then on the premises, mentioned in the License.

Penalty.

Accounts of
spirits distilled
to be rendered
to Inspector
twice a month.

X. And be it enacted, That every party licensed to act as a Distiller, and acting as such, shall, within ten days after the first day, and within ten days after the fifteenth day of each of the months in each year, render to the District Inspector a just and true account, in writing, extracted from the books to be kept for such purpose as aforesaid, and signed by such party, or his agent, or chief clerk, showing the total quantity, in gallons, of each kind of spirits, strong waters or spirituous liquors, (with the strength thereof,) on which a duty shall be payable under this Act, by him distilled, manufactured or made, during the period for which no account shall have been previously rendered, and shewing also the quantity produced at each separate time, if there shall have been any distinct set or sets of operations by reason of each of which duty shall have become payable ; and shewing also the quantities of each kind of grain, or other vegetable production or substance, used by such party in his business as a Distiller ; and such account shall be attested by the person signing the same by an affidavit in the following form :

Affidavit at-
testing the
truth of ac-
count.

“ I, do solemnly swear, that the account above
“ written, to which I have also subscribed my name, contains a true account of the
“ total quantity of every kind of spirits or strong waters or spirituous liquors,
“ distilled, manufactured or made by me (or by
“ as the case may be,) within the time mentioned in the same account, and on which
“ duty is payable, and of the quantities of each kind respectively, and the strength
“ thereof, and also of the quantities produced at each separate time therein men-
“ tioned by a distinct set of operations ; and also of the quantities of all grain
“ or other vegetable production or substance, consumed by me, (or by the said
“) during the said time : So help me God.”

Inspector may
ask questions
upon the ac-
count and re-
quire the
answers to be
sworn to.

And such affidavit shall be made before some Justice of the Peace, and shall be delivered with such account to the District Inspector, who may put to the person making it such questions as may be necessary to the elucidation and full understanding of the account, and for ascertaining whether such person has had the means of knowing the same to be correct, and may require his answers to be sworn to before some Justice of the Peace, and may reject the account if such account or the

the answers so given shall be insufficient, according to the true intent and meaning of this Act.

XI. And be it enacted, That any wilfully false statement in any affidavit required by this Act, shall be deemed to be wilful and corrupt perjury, and any person convicted thereof shall be liable to be punished accordingly.

Wilful false statements to be perjury.

XII. And be it enacted, That each licensed Distiller shall, on being thereunto required by the District Inspector, produce to that Officer at any seasonable time and hour, and shall allow him to take copies and extracts from such books and accounts as may be requisite to enable him to verify any account rendered as aforesaid, and shall, at all times and hours, allow the District Inspector, or any person employed by him, free access to the buildings and premises in which such Distiller shall exercise his calling as such, and more especially at all times when he shall be performing any operation therein by reason of which duty may become payable, under a penalty of Twenty Pounds, currency, for each neglect or refusal to comply with the requirements of this section : Provided always, that no District Inspector shall require any such book or account to be produced to him elsewhere than at the place where such Distiller or Brewer shall carry on his business as such, or require admittance between the hours of sunset and sunrise, except when the Distiller is at work, or he be accompanied by a Peace Officer.

District Inspector to have free access to premises of Distillers and to books and accounts.

Penalty.
Proviso.

XIII. And be it enacted, That each licensed Distiller shall, at the time of rendering such account as aforesaid to the District Inspector, pay over to that Officer the amount of duties which shall by such account appear to be payable ; and if any licensed Distiller shall refuse or neglect to render such account or to pay over such duties as aforesaid, according to the true intent and meaning of this Act, he shall, by such refusal or neglect in either case, incur a penalty of Twenty Pounds, currency ; and the District Inspector may also, at his discretion, cause a notice to be inserted in the Public Gazette of this Province, declaring the party so refusing or neglecting to have forfeited his License as a Distiller, and such License shall be forfeited accordingly, and shall be null and void from and after the date of such notice, nor shall any new License be granted to the defaulter until after the debt and penalty aforesaid shall have been paid and satisfied.

Duties to be paid when the said account is rendered.

Penalty.
License forfeited.

XIV. Provided always, and be it enacted, That any duties payable under this Act, shall be recoverable at any time after the same ought to have been accounted for and paid, whether an account of the quantity of spirits, strong waters or spirituous liquors as aforesaid, on which they shall be payable, shall or shall not have been rendered as aforesaid ; but in the case last mentioned, the party by whom such duties shall be payable, shall incur a penalty equal to three times the amount of such duties, for his neglect to render the accounts relative to the same as hereinbefore required, in addition to any other penalty he may have incurred by such neglect ; and all such duties shall be recoverable with full costs of suit in favour of Her Majesty ; any law, usage or custom to the contrary notwithstanding.

Duties recoverable although account be not rendered.

Further penalty.

Costs of suit.

XV. And be it enacted, That it shall not be lawful for any Distiller to work his distillery at any time unless he shall have given at least ten days previous notice in writing to the District Inspector, of his intention to work the same at such

Distiller to give notice of the time at which he intends to work.

Penalty. such time ; and such notice shall not extend to a longer period than thirty days from the delivery thereof to the District Inspector ; and any use made of any still, mash-tub or fermenting-tun, for the purpose of distillation, mashing, or fermentation shall be deemed to be a working of the distillery and an acting as a Distiller within the meaning of this Act ; and if any Distiller shall work his distillery at any time for which he shall not give notice of his intention to work the same, he shall, for each day on which he shall so work such distillery, incur the same penalty and forfeiture as if he had worked the same without a License.

Payment of penalty not to release party from payment of duty.

Duties how recoverable.

Certain property made specially liable.

May be seized before judgment.

XVI. Provided always, and be it enacted, That the payment of any penalty imposed by this Act, shall not be construed to discharge the party paying the same or his sureties from the obligation to pay all duties due by such party, and the same shall be paid and may be recovered as if such penalty had not been paid or incurred : and all such duties shall be recoverable, with full costs of suit, as a debt due to Her Majesty, in any Court of competent civil jurisdiction ; any law, usage or custom to the contrary notwithstanding ; and (without any prejudice to the liability of any other property of the debtor or his sureties,) the stock in trade, stills, mash-tubs, fermenting-tuns, and other machinery and utensils, whether so fixed as to form part of the real or immoveable property or not, which shall be on the premises mentioned in the License at the time any such duties shall have become due, shall be liable for such duties and for any penalty incurred by the Distiller on whose premises they shall be, by special privilege and lien in favour of the Crown, and may be seized and sold in satisfaction of the same under any Warrant of Distress or Writ of Execution, and removed by the purchaser, to whomsoever the same might otherwise belong, or into or in whose hands or possession soever the same may have passed or may be found, and notwithstanding any claim to the same, or privilege or lien thereon in favour of any other person or party whomsoever ; and if the same be forfeited under the provisions of this Act for any contravention thereof, they may be seized by the District Inspector, or any person acting by his authority, at any time after the commission of the offence for which they are forfeited, and marked, detained or secured until condemned or released by competent authority, and shall not, while under seizure, be used by the offender, and if condemned they shall be removed or sold, or otherwise dealt with in such manner as the Governor in Council shall direct.

Distiller to furnish the Inspector with the means of examining his stills, &c.

Penalty for refusal.

XVII. And be it enacted, That each and every Distiller, licensed under this Act, shall at all times furnish the District Inspector or his Assistant with lights, ladders, measures, and other things requisite to enable him properly to examine, inspect, measure, or guage any still, auxiliary vessel, mash-tub, fermenting-tun, or other vessel, or any grain, vegetable, or other substance or matter as aforesaid, on the premises of such Distiller or Brewer, or any part of such premises, under a penalty of Twenty Pounds, currency, for any refusal or neglect to comply with the requirements of this section.

Inspector to have access to the premises of the Distiller.

XVIII. And be it enacted, That the District Inspector, and any person or persons acting under him or by his directions, may, at any hour of the day or night, enter any premises referred to in any License granted under this Act, and may make all necessary enquiries and searches therein, for the purpose of ensuring the execution

execution of this Act according to its true intent and meaning, subject to the restrictions hereinbefore mentioned.

XIX. And be it enacted, That the District Inspector, or any person or persons acting under him or by his directions, having first obtained a Search Warrant for that purpose from some Justice of the Peace, who may grant the same on affidavit made before him, and to his satisfaction, and stating reasonable grounds for the issuing thereof, may, at any hour between sunrise and sunset, enter into and search any house, building or place, mentioned in such Search Warrant as being those in which affidavit has been made of reasonable cause to suppose that any unlicensed still, auxiliary vessel, mash-tub, fermenting-tun, or other vessel, is illegally in use, or the provisions of this Act otherwise contravened.

Inspector by Search Warrant may enter and search any house between sunrise and sunset.

XX. And be it enacted, That any penalty or forfeiture incurred for any offence against the provisions of this Act, may be sued for and recovered before any two or more Justices of the Peace, (such Justice or Justices having jurisdiction in the place where the offence was committed,) on the oath of two credible witnesses; and any such penalty may, if not forthwith paid, be levied by distress and sale of the goods and chattels of the offender, under the warrant of such Justice or Justices; or the said Justice or Justices may, in his or their discretion, commit the offender to the Common Gaol, until the penalty, with the costs of the prosecution, shall be paid; and one moiety of such penalty or forfeiture shall belong to Her Majesty, and shall be paid and applied in the manner hereinafter provided with regard to other pecuniary penalties, and the other moiety shall belong to the person suing for the same.

Penalties how recoverable.

And how levied or enforced if not paid.

XXI. Provided always, and be it enacted, That any pecuniary penalty or any forfeiture imposed by this Act, whatever be the amount thereof, may be sued for and recovered with costs, on the oath of any one competent witness in any Court having civil jurisdiction to the amount of such penalty or forfeiture, by Her Majesty's Attorney General, or by any other person or officer thereunto authorized by the proper authority; and one moiety of such penalty or forfeiture shall belong to the District Inspector, or other person or officer suing for the same, and the other moiety shall belong to Her Majesty, and shall be paid over to the District Inspector of the Revenue District where the offence shall have been committed, and by him accounted for and paid over as other public monies coming into his hands: Provided that if any such penalty or forfeiture be sued for in the name of the Crown only, in such case (as also in the like cases in prosecutions under the next preceeding section) the whole of the penalty or forfeiture shall belong to the Crown.

All penalties and forfeitures may be recovered in civil Courts of competent jurisdiction.

Distribution of penalties.

Proviso.

XXII. And be it enacted, That any District Inspector, Officer of the Customs, or other person employed in the collection of the Revenue, shall be deemed a competent witness in any prosecution or suit under this Act, provided he be not himself the prosecutor or a party to such suit, although he may have or may believe himself to have some expectation of advantage to himself from the successful termination of such prosecution or suit; but the credibility of his testimony shall be left to the Court, Jury, Justice or Justices before whom the prosecution or suit shall be brought: nor shall any person making any seizure, under this Act be liable to damages

Who may be a competent witness in suits, &c., under this Act.

Provision as to invalid

seizures for which there was probable cause.

damages if such seizure be declared not valid, provided the Court, Justice or Justices declaring it not valid shall certify that there was probable cause for making it.

Penalty on persons refusing to give evidence.

XXIII. And be it enacted, That any person who shall refuse or neglect to appear before any Justice or Justices or any Court, to give evidence, when summoned concerning any alleged offence against the provisions of this Act, shall for such refusal or neglect incur a penalty of Five Pounds, currency, to be recovered in the manner hereinbefore provided for the recovery of other penalties of like amount.

Duties hereby imposed to be within the meaning of 8 Vict. c. 4.

And how accounted for.

XXIV. And be it enacted, That the duties hereby imposed shall be deemed to be duties within the meaning of an Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to provide for the Management of the Customs and of matters relative to the collection of the Provincial Revenue*; and that all sums of money paid or recovered either for such duties or for any penalty or forfeiture under this Act, and belonging to Her Majesty, shall be paid to the Receiver General, and shall form part of the Consolidated Revenue Fund of this Province, and shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct, and nothing in this Act contained shall be construed to repeal any part or provision of the said Act.

Commencement of this Act.

XXV. And be it enacted, That this Act shall commence and have force and effect upon, from, and after the fifth day of January, one thousand eight hundred and forty-seven.

Act to be in force till end of next Session after 1st January 1846.

XXVI. And be it enacted, That this Act shall remain and continue in force until the first day of January, one thousand eight hundred and forty-eight, and from thence until the end of the then next ensuing Session of Parliament.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. III.

An Act to amend the Law in cases of Forgery.

[18th May, 1846.]

WHEREAS it is expedient that in prosecutions for Forgery, justice should not be defeated by clerical or verbal inaccuracies in the proceedings, and that the party interested should be rendered a competent witness: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in all informations or indictments, either at Common Law or by virtue of any Statute, against any person or persons for forging any deed, writing, instrument, or other matter whatsoever, or for uttering or disposing of any deed, writing, instrument, or other matter whatsoever, knowing the same to be forged, or for being accessory before or after the fact, to any such offence, if the same be a felony, or for aiding, abetting and counselling the commission of any such offence, if the same be a misdemeanor, it shall not be necessary to set forth any copy or *fac simile* of such deed, writing, instrument, or other matter, but it shall be sufficient to describe such deed, writing, instrument, or other matter, in such manner as would sustain an indictment for stealing the same.

Preamble.

In all indictments for forgery, it shall not be necessary to set forth a *fac simile* of the forged deed, &c.

II. And be it enacted, That in all prosecutions by indictment or information against any person or persons for any offence above mentioned, no person or persons shall be deemed to be an incompetent witness or incompetent witnesses in support of any such prosecution, by reason of any interest which such person or persons may have, or be supposed to have in respect of such deed, writing, instrument, or other matter: Provided always, that the evidence of the person or persons so interested, or supposed to be interested, shall in no case be deemed sufficient to sustain a conviction for any of the said offences, unless the same be corroborated by other legal evidence in support of such prosecution.

Person interested in the forged deed, &c, not to be incompetent witness for the prosecution.

Proviso; such evidence must be corroborated by other legal evidence.

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Law Printer to the Queen's Most Excellent Majesty.



A N N O N O N O

VICTORIÆ REGINÆ.

CAP. IV.

An Act to consolidate and amend the Laws relating to the Provincial Penitentiary.

[18th May, 1846.]

WHEREAS it is expedient to consolidate and amend the several Acts now in force relative to the maintenance and government of the Provincial Penitentiary of Canada, and to make further provision for the same : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said Provincial Penitentiary of Canada shall be under the direction of a Board of five Inspectors, to be appointed by the Governor of this Province, to hold their office during pleasure, the present Inspectors remaining in office, and holding the same during pleasure, notwithstanding the passing of this Act ; and that the said Board of Inspectors shall, from time to time, choose one of their number to be their President, and shall have full power and authority to make all necessary rules and regulations respecting the discipline and police of the said Penitentiary, which rules and regulations the officers and others employed therein shall be bound to obey : Provided always, that the Warden of the said Penitentiary shall attend at all meetings of the said Board, whenever thereto required by the President thereof.

Preamble.

Board of Inspectors constituted.

II. And be it enacted, That the Inspectors of the said Penitentiary shall have power, and it shall be their duty, from time to time, to examine and inquire into all matters connected with the government, discipline and police of the said Penitentiary, the punishment and employment of the prisoners therein confined, the financial concerns and contracts for work, and the purchases and sales of the articles provided for such Penitentiary, or sold on account thereof, and to make such rules and regulations for all or any of the foregoing purposes, as they shall see fit, not inconsistent with this Act or with any other Law of this Province ; which rules and regulations shall forthwith be reported by their Clerk to the Governor, and may at any time be disallowed by him, and that they may, from time to time, require written reports from the Warden, in relation to any or all of the said matters.

General duties of the Inspectors.

III.

Power to institute inquiries, and examine witnesses on complaints.

III. And be it enacted, That it shall be the duty of the said Inspectors to inquire into any improper conduct which may have been alleged to have been committed by any of the officers or other persons employed in the said Penitentiary, and for that purpose they shall have full power to issue *subpœnas* to compel the attendance of witnesses, and the production of papers and writings before them; and that any person who may have been duly summoned to attend and give evidence before the said Board, in pursuance of this Act, and shall refuse or neglect to appear in pursuance of such summons, shall, upon conviction thereof before one Justice of the Peace, be liable to be fined in such sum not exceeding five pounds, as to the Justice shall seem meet, and in default of payment thereof, together with the costs, a warrant may be issued by such Justice to levy the same by distress and sale of the goods of the party offending, (the overplus, if any, to be returned to the owner,) and if no sufficient distress can be found, then the party convicted may be committed to the Common Gaol for any term not exceeding one calendar month, unless payment be sooner made; and that any witnesses who shall appear before them may be examined on oath, to be administered by the President of the Board of Inspectors, and that any witness or witnesses who shall wilfully and corruptly forswear themselves, shall, on conviction thereof, suffer the pains and penalties inflicted on persons guilty of wilful and corrupt perjury.

Power to look at the Books, &c., kept by the Warden.

IV. And be it enacted, That it shall be the duty of the Warden of the said Penitentiary to admit the Inspectors, or any of them, into every part of the said Penitentiary, to exhibit to them, on demand, all the books, papers, writings and accounts pertaining to the said Penitentiary, or to the business, management, discipline and government thereof, and to render them every facility in his power to enable them to discharge their duties.

Board to keep Minutes and make Reports.

V. And be it enacted, That the Board of Inspectors shall keep regular minutes of its meeting and proceedings, which shall be signed by the members of the Board present thereat, and preserved in the Penitentiary; and it shall be the duty of the said Board to meet once in every two months at the Penitentiary, and oftener when necessary, (and the President of the Board shall call any special meeting, which he is hereby authorized to do,) and then to inspect the same; and they shall annually, on or before the first day of November, make a report to the Governor of this Province, (copies whereof shall be laid before the Legislature,) of the state and condition of the said Penitentiary, of the prisoners confined therein, of the monies received and expended, and generally of all their proceedings during the past year: Provided always, that no Inspector of the said Penitentiary shall be Warden thereof, or be in any way concerned in the business or duties of such Warden, or hold any other appointment connected with the Penitentiary, nor shall it be competent for any of the Inspectors, individually, to give directions to the Warden, in his management of the Penitentiary, or otherwise than by resolution in writing adopted when they are sitting at the Board, as herein provided for.

Provide.

Officers of the Penitentiary.

VI. And be it enacted, That the officers of the said Penitentiary, shall be as follows: One Warden or Principal Superintendent, one Clerk, one Physician and Surgeon, one Chaplain, one Head-Keeper, one Keeper to every thirty convicts confined in the Penitentiary, one Matron and one Assistant Matron; the Warden, Clerk, Surgeon, and Chaplain, to be appointed by the Governor of this Province, and

and to hold their offices during pleasure, and the remainder of the officers to be appointed and removed by the Warden of the said Penitentiary, subject to the approval of the Board of Inspectors: Provided always, that the officers already appointed shall continue to hold their offices during pleasure: And provided also, that the Inspectors shall have power to suspend or remove, for sufficient cause, any of the officers now or hereafter to be appointed other than those appointed by the Governor: Provided also, that if there shall arise any difference between the Board of Inspectors and the Warden touching the appointment or removal of any such officer, the same shall be referred for the decision of the Governor.

Proviso.

Proviso.

Proviso.

VII. And be it enacted, That the Warden shall have authority to employ, from time to time, such number of Watchmen for the guarding of the said Penitentiary, (and to remove the said Watchmen when necessary,) as may by direction of the Inspectors be deemed sufficient for the safe-keeping of the convicts confined therein.

Employment of
Watchmen.

VIII. And be it enacted, That the Warden and Clerk shall severally execute bonds to Her Majesty with sufficient sureties, that is to say, the Warden in the penal sum of two thousand pounds, and the Clerk in the penal sum of five hundred pounds, conditioned for the faithful performance of the duties of their respective offices according to law, which bonds shall be filed in the office of the Provincial Secretary; and the said Warden, Clerk, Head-Keeper, Keepers, Watchmen, Matron and Assistant Matron, shall severally take and subscribe before the President of the said Board of Inspectors the following oath of office, such oath to be filed in the office of the Clerk of the said Penitentiary:

Warden and
Clerk to give
security.

" I, A. B., do promise and swear, that I will faithfully, diligently and justly
" serve and perform the office and duties of
" Provincial Penitentiary, according to the best of my abilities: So help me God."

Oath of office.

IX. And be it enacted, That it shall be the duty of the said Warden, or in his absence of the Head-Keeper, to attend constantly at the Penitentiary, except when performing some other necessary duty of his office, and under the rules and regulations which may be made as aforesaid, to exercise a general supervision and control over the government, discipline and police of the said Penitentiary; to give the necessary directions to the officers and others employed therein, and to examine daily into the state of the Penitentiary, and the health, conduct and safe-keeping of the Prisoners; to use every means to furnish such prisoners with employment, the most beneficial to the public, and the best suited to their various capacities, and to superintend all the manufacturing and mechanical business that may be carried on within the Penitentiary; to receive the articles so manufactured; and to sell and dispose of the same for the benefit of the Province, when the labour of the convicts is not let out by contract: Provided always, that the Warden shall be, and is hereby authorized to act in all cases not provided for by law, or by such rules or regulations, during the interim of the sitting of the Board of Inspectors, in such manner as he may deem to be most for the advantage of the Penitentiary: And provided also, that the said Warden shall be bound to report to the said Inspectors, at their next subsequent meeting, all matters wherein he has acted during the absence of the Board, and which specially come under the cognizance and direction of the Inspectors.

Duties of
Warden and
Head-Keeper.

Proviso.

Proviso.

Warden may
sue and con-
tract by his
name of office.

X. And be it enacted, That all transactions and dealings on account of the said Penitentiary, shall be conducted by and in the name of the Warden, who shall be capable, in law, of contracting, suing and being sued in all Courts and places, and in all matters concerning the said Penitentiary, by his name of office of "*The Warden of the Provincial Penitentiary of Canada*," and by that name the said Warden shall be, and is hereby authorized to sue for and recover all sums of money that may be or become due from any person to the Province on account of the said Penitentiary, and by that name he and his successors in office shall have perpetual succession; and it shall be the duty of the said Warden to enforce the payment of all debts due to the institution under his charge, as soon, and with as little expense to the Province as possible, but he may, with the approbation of the Inspectors, accept of such security from any debtor, on granting time, as may be conducive to the interests of the Province.

Disputes may
be referred to
arbitration.

XI. And be it enacted, That whenever any controversy shall arise relative to any claim or demand which any person may have against the said Warden relative to any claim or demand which the said Warden may have against any person, on account of the said Penitentiary, such controversy may be referred to the arbitration of two or more persons mutually chosen by such Warden and the person with whom such controversy may exist, or by the arbitrators so appointed as an umpire.

May let out
convict labour.

XII. And be it enacted, That whenever the Inspectors of the said Penitentiary shall so direct, it shall be the duty of the Warden to make contracts from time to time for the labour of the convicts confined therein, or of any of the said convicts, with such person and upon such terms as may be deemed by the said Warden most beneficial to the Province; and all contracts so to be made shall be reduced to writing, and a counterpart or copy of every such contract shall be filed with the Clerk of the Penitentiary.

Mode of con-
tracting for
supplies for
Penitentiary.

XIII. And be it enacted, That the prisoners confined in the said Penitentiary shall be supplied with provisions by contract, which contract shall be made by the Warden annually, unless the Inspectors shall otherwise direct, with such persons as may be willing to accept the lowest terms, at a fixed price per day for each ration, to be furnished, the articles of food, and the quantities of each kind to be prescribed by the Inspectors and inserted in the contract; and for the purpose of ascertaining who will furnish supplies on the lowest terms, the Warden shall cause a notice to be published in three of the newspapers printed in the Midland District, stating the particular supplies wanted, the manner in which they are to be delivered, and the time during which proposals will be received by such Warden for furnishing the same; the proposals to be offered pursuant to such notice, shall specify the lowest price per ration per day, and the contracts shall be made with those persons whose terms shall be most advantageous to the Province, and who shall give satisfactory security for the performance of their contracts: Provided always, that should it be deemed by the Warden that such tenders as may be offered are not satisfactory, he may, with the consent of the Inspectors, decline the same, and advertise anew.

Proviso.

XIV. And be it enacted, That the necessary Medicines and other Hospital Stores for the use of the Penitentiary, shall be purchased from time to time, as may be requisite, by the Warden, upon requisitions therefor being furnished to him by the Surgeon of the Penitentiary.

Medicines and
Hospital
Stores.

XV. And be it enacted, That the Warden shall purchase such materials and other articles as may be necessary to be manufactured or used in the Penitentiary, and to be paid for by the said Warden, out of any money in his hands belonging to the Province; and whenever any supplies or materials shall be purchased for the Penitentiary, it shall be the duty of the Warden to take bills or accounts thereof at the time of such purchase, and the Clerk shall compare such bills with the articles delivered, and if found to be correct, shall enter them in books provided for that purpose; and whenever any services shall be rendered on account of the said Penitentiary, it shall in like manner be the duty of the Warden to take bills thereof, and receipts therefor in duplicate at the time of making payment for the same, every such bill to be entered by the Clerk in the books of the Penitentiary, unless he shall have reason to believe that such bills are erroneous.

Warden may
purchase raw
materials, &c.

XVI. And be it enacted, That no Inspector, Warden, or other Officer or person employed at the Penitentiary shall be directly or indirectly interested in any contract or purchase, for, by, or on account of the said Penitentiary, under the penalty of one hundred pounds, to be recovered by action of debt in any of Her Majesty's Courts in this Province, which penalty when recovered shall be paid into the hands of Her Majesty's Receiver General, for the public uses of the Province.

Neither In-
specter, War-
den nor Offi-
cers to be con-
tractors.

XVII. And be it enacted, That it shall be the duty of the said Warden to keep a regular and correct account of all monies received by him from any source whatever by virtue of his office, including all monies taken from convicts or received as the proceeds of property taken from them, and of all sums paid by him, and the persons to whom, and the purposes for which the same were paid, and to make out monthly and deliver to the Board of Inspectors, a Return of all monies received by him on account of the Penitentiary, during the preceding month, specifying from whom received and to whom paid, and on what account, and stating also the balance in his hands at the time of rendering such account.

Warden to
keep regular
accounts.

XVIII. And be it enacted, That the said Warden shall annually close his account on the first day of October in every year, and on or before the first day of November thereafter shall render to the Governor, to be laid before the Legislature, a full and true account of all monies received by him on account of the Penitentiary, and of all monies expended by him for the uses thereof, with sufficient vouchers for the same, and also an Inventory of the goods, raw materials, and other property of the Province on hand; and to the several returns, accounts and inventories required to be rendered by this and the last preceding clause, there shall be annexed an affidavit of the Warden and Clerk of the Penitentiary, stating that the same are correct and true in every respect, to the best of their knowledge and belief.

Time of clos-
ing yearly ac-
counts, &c.

Accounts to
be sworn to.

Warden to
make a yearly
Report.

XIX. And be it enacted, That the Warden shall on or before the first day of November in every year, lay before the Inspectors of the Penitentiary, a Report exhibiting a comprehensive view of the transactions of the Penitentiary during the preceding year, of the number of convicts confined therein, the various branches of business in which they are employed, the number employed in each branch, and the profits to the Province, if any, arising therefrom.

Officers to
have no emo-
luments but
Salary.

XX. And be it enacted, That neither the Warden nor any other officer or person employed in the Penitentiary shall receive any perquisite or emoluments for his, her or their services, other than the compensation allowed by this Act, except that the Warden and Head-Keeper shall be provided with a dwelling at or near the Penitentiary, and shall be furnished with fuel and candles for their use.

Annual report
of prisoners
discharged to
be made.

XXI. And be it enacted, That it shall be the duty of the Warden annually on or before the first day of October in each year, to make a Report to the Governor of the names of the convicts discharged in the preceding year from the said Penitentiary, either by pardon, death, or upon the expiration of the term for which they were respectively to be confined,—the Districts in which they were tried,—the crimes for which they were convicted,—the terms of time for which they were severally committed,—the ages and description of their persons,—and in cases of pardons, the terms unexpired of the time for which such convicts were respectively sentenced, when such pardons were granted, and the conditions, if any, upon which they were granted.

Duty of Head-
Keeper.

XXII. And be it enacted, That it shall be the duty of the Head-Keeper to act under the control and superintendence of the Warden, and according to the directions he shall receive from him, and that he shall, whenever there shall exist a vacancy in the office of Warden, or when the Warden shall be absent from the Penitentiary, have all the powers of the Warden so far as the same relate to the safe-keeping of the prisoners, and the discipline of the Penitentiary.

Duty of Phy-
sician and
Surgeon.

XXIII. And be it enacted, That it shall be the duty of the Physician or Surgeon of the said Penitentiary, to keep Registers of all the sick convicts placed under his care, stating the diseases with which they are or were afflicted, distinguishing those confined in Hospital or otherwise, and also a Register of the deceased convicts, stating their names, ages, time and cause of death, and all other circumstances which he may deem necessary, which Registers shall always remain at the Penitentiary and be open for inspection.

Attendance of
that Officer.

XXIV. And be it enacted, That the Physician or Surgeon shall attend at the Penitentiary once every day, at a stated hour to be prescribed by the Inspectors, and in cases of emergency shall repair thereto as often as may be necessary; and that he shall also attend at the Penitentiary whenever he may be required so to do by the Warden, to the exclusion of all private practice.

Duty of Chap-
lain.

XXV. And be it enacted, That the Chaplain shall give his attendance daily at the Penitentiary, for such number of hours as the Inspectors shall direct, during which he shall be occupied in giving spiritual advice to the convicts under his charge; and that he shall attend at the hour of nine o'clock in the morning of
every

every Sunday, Good Friday, and Christmas Day to read prayers and preach a sermon to such convicts.

XXVI. And whereas a large proportion of the convicts confined in the said Provincial Penitentiary are of the Roman Catholic religion: Be it therefore enacted, That the Roman Catholic Bishop of Kingston, or his Coadjutor, or ecclesiastical person administering the Diocese, may from time to time direct the attendance of a Roman Catholic Priest at the Penitentiary for the purpose of performing Divine Service, according to the rites and ceremonies of that Church, to the convicts of that Faith, for which duty he shall be paid the sum of one hundred and twenty-five pounds per annum: Provided always, that such Priest shall be, as to the term of his attendance for the discharge of his duties, at all times subject to the rules and regulations established or to be established for the government of the Penitentiary: Provided also, That it shall be lawful for the Board of Inspectors to make rules and regulations for the admission, at proper and convenient times, of the Clergymen or Ministers of any denomination of Christians, for the religious instruction of such convicts as may belong to the same denomination as any such Clergyman, respectively.

Roman Catholic Clergymen may be appointed to attend.

Proviso.

XXVII. And be it enacted, That all Books of Account, Registers, Returns, and other documents and papers relating to the affairs of the Penitentiary, shall be considered as public property and remain therein; and the Warden of the said Penitentiary shall preserve therein, at least one set of copies of all Official Reports made to the Legislature respecting the same, for which purpose, and to enable the Warden to distribute such Official Reports in exchange for the like documents from other similar Institutions, he shall be furnished by the Clerk of the Legislative Assembly, with fifty copies of such Reports for distribution, when such Reports shall be printed by order of the said Legislative Assembly.

Books, Accounts, &c., to be public property.
Publication of certain documents

XXVIII. And be it enacted, That hereafter the Officers and other persons employed in the Penitentiary shall receive the undermentioned sums, per annum, severally stated against each, that is to say: the Warden, five hundred pounds; the Clerk, one hundred and fifty pounds; the Surgeon, two hundred pounds; the Chaplain, one hundred and twenty-five pounds; the Head-Keeper, one hundred and twenty-five pounds; the Keepers, each one hundred pounds, and twelve pounds ten shillings each for house-rent; the Watchmen, three shillings and six pence per diem; the Matron, seventy-five pounds; the Assistant-Matron, fifty pounds.

Salaries of Warden and officers.

XXIX. And be it enacted, That all convicts in the Penitentiary, other than such as are confined in solitude for misconduct therein, shall be kept constantly employed at hard labour during the day time, except when incapable of labouring by reason of sickness or bodily infirmity, and except on Sunday, Christmas Day, and Good Friday, and that it shall be the duty of the Warden to keep each prisoner singly in a cell at night, and also during the day time when unemployed: Provided always, that nothing herein contained shall be construed to oblige any convict of the Roman Catholic persuasion, to labour on any of the following obligatory holidays of that church, that is to say: *Circumcision, Epiphany, Annunciation, Ascension, Corpus Christi, Saint Peter and Saint Paul, All Saints, and Conception.*

Convicts to be kept at work.

Exceptions.

Proviso.

XXX.

Clothing and bedding.

XXX. And be it enacted, That the clothing and bedding of the convicts shall be of coarse materials, manufactured, when it can be done, in the Penitentiary ; they shall be supplied with a sufficient quantity of inferior and wholesome food, and it shall be the duty of the Warden to furnish, at the expense of the Province, a Bible to each convict in the Penitentiary who can read, on the requisition of the Clergyman having charge of the spiritual instruction of such convict.

Bible.

Punishment of convicts offering violence to officers, &c.

XXXI. And be it enacted, That whenever any convict shall offer violence to an officer or other person employed in the Penitentiary, or to any convict, or do or attempt to do any injury to the building or any workshop, or any appurtenance thereof, or attempt to escape, or resist or disobey any lawful command, the officers of the Penitentiary, or either of them, shall and may use all suitable means to defend themselves, to enforce the observance of discipline, to secure the person of the offender, and to prevent any such escape.

And of convicts attempting to escape.

XXXII. And be it enacted, That if any convict confined in the Penitentiary shall escape or attempt to escape therefrom, such offence shall be a misdemeanor, for which he or she shall be liable to be further imprisoned in the said Penitentiary for a period not exceeding seven years after the expiration of the sentence previously passed upon him or her ; and after conviction before the Court of Quarter Sessions for the Midland District, and the offender may be arrested on the charge on the oath of any officer of the Penitentiary, and the warrant of a Justice of the Peace, for the said District, immediately after the expiration of the term for which he was previously sentenced.

Warden to take care of property of convicts.

XXXIII. And be it enacted, That it shall be the duty of the said Warden to take charge of any property which any convict shall have with him at the time of entering the Penitentiary, and to preserve the same for the benefit of such convict or his representatives ; and the said Warden shall deliver the same to such convict when released ; and in case of the death of any convict in the Penitentiary, if no legal representative shall demand such property within one year, then the same shall be applied to the use of the Province : Provided nevertheless, that in all cases wherein any convict has been sentenced to an imprisonment of a longer duration than three years, it shall not be incumbent on the Warden to preserve the clothing of any such prisoner for his special use.

Provided.

Allowance to convicts discharged.

XXXIV. And be it enacted, That whenever any convict shall be discharged from the Penitentiary, either by pardon or expiration of sentence, it shall be the duty of the Warden to furnish such convict with necessary clothing, not exceeding the value of two pounds, and such sum of money not exceeding one pound, as the said Warden may deem proper and necessary.

Letters and papers not to be brought into Penitentiary without consent of Warden.

XXXV And be it enacted, That no person shall, without the consent of the Warden, bring into or convey out of the Penitentiary any letter, writing, or other article, to or from a convict, nor shall any officer or other person employed therein write any letter on behalf of a convict ; and whoever shall violate either of the provisions of this clause shall be deemed guilty of a misdemeanor, and he shall be liable to be fined or imprisoned, or both, at the discretion of the Court before which he or she may be convicted for the same.

XXXVI.

XXXVI. And be it enacted, That no officer or other person employed in the Penitentiary shall be allowed to carry on any trade or calling for the purpose of profit or emolument, other than the situation held by him in the said Penitentiary: Provided always, that the Surgeon and Chaplain thereof may be allowed to exercise their respective professions independently of their duties in the Penitentiary.

Officers to hold no other place or calling.

XXXVII. And be it enacted, That the following persons shall have the authority to visit the Penitentiary at pleasure, namely: the Governor, the Members of the Executive Council, the Members of the Legislature, the Judges of the several Courts of Queen's Bench, and the Attorneys and Solicitors General; but no other person shall be permitted to enter within the walls where the prisoners are confined except by the special permission of the Warden, and under such regulations as the Inspectors shall prescribe.

Who may visit the Penitentiary *ex officio*.

XXXVIII. And be it enacted, That whenever any convict shall be delivered at the Penitentiary, it shall be the duty of the officer having such convict in charge, to deliver to the Warden a certified copy of the sentence from the Clerk of the Court before which such convict shall have been tried, stating the date of the sentence passed upon the convict, and such officer shall take from the Warden, or in his absence, from some other officer of the Penitentiary, a certificate of the delivery of such convict; and whenever any convict confined in the Penitentiary shall escape therefrom, it shall be the duty of the Warden to take all proper measures for the apprehension of such convict, and for that purpose the Warden may offer a reward not exceeding fifty pounds for the apprehension and delivery of such convict.

Certified copy of the sentence to be given to the Warden with each prisoner.

XXXIX. And be it enacted, That in order to suppress any revolt or meeting that may occur among the convicts in the Penitentiary, and to ensure the capture of any convict who may escape therefrom, and to assist in any emergency wherein their services may be required, it shall be lawful for the Warden to organize a Guard consisting of not more than fifty persons, inhabitants of the neighbourhood of the Penitentiary, to be under the orders of the said Warden, who, in consideration of the duties to be imposed upon them, shall be exempt from the duties of Constable, Militiaman, or Town Officer, during the time they shall be enrolled in the Penitentiary Guard: Provided always, that the Warden shall have power to remove such persons as he may, from time to time, consider unfit to be of the number of the said Guard, and to appoint others in their stead.

Guard to be formed to suppress mutiny, prevent escape, &c.

Proviso.

XL. And be it enacted, That it shall not be lawful for any Coroner to hold an inquest in the said Penitentiary upon the body of any deceased convict, unless requested so to do by the Warden of the Penitentiary, but it shall be the duty of the Warden to call the Coroner in all cases of death of any convict from any cause other than ordinary sickness; and whenever a convict, under sentence of imprisonment for a term of seven years or upwards, shall die, if the body of such convict be not taken away by the friends or relatives of the deceased within twenty-four hours after the death of such convict, for the purpose of being interred, the Warden may deliver, on demand, such dead body to the Agent of any Medical or Chirurgical Society of the District in which the Penitentiary is situate; and whenever a convict, under sentence of imprisonment for a less term than seven years, shall die, it shall be the duty of the Warden to cause the body of such convict to be

Inquests on bodies of deceased convicts, how to be held.

Unclaimed bodies of convicts how to be disposed of.

be decently interred at the expense of the Province, and according to the forms, rites and ceremonies of the church to which such convict belonged, unless the said body shall have been taken away by the friends or relatives of the deceased within twenty-four hours as aforesaid.

Case of contagious disease provided for.

XLI. And be it enacted, That in case any pestilence or contagious disease shall break out among the convicts in the said Penitentiary, or in the vicinity thereof, the Inspectors may cause the convicts, or any of them, to be removed to some suitable place of security, where such of them as may be sick shall receive all necessary care and medical assistance, and such convicts shall be returned as soon as may be to the Penitentiary, to be confined therein according to their respective sentences, if the same be unexpired.

Case of fire.

XLII. And be it enacted, That whenever, by reason of the Penitentiary or any building contiguous thereto being on fire, there shall be reason to apprehend that the convicts confined therein may be injured or endangered by such fire, the Warden may, in his discretion, remove such convicts to the most safe and convenient place in his charge, and there confine them so long as it may be necessary to avoid such danger.

No spirits to be sold or brought into Penitentiary.

XLIII. And be it enacted, That no spirituous or fermented liquors shall on any pretence whatever be sold within the said Penitentiary; nor shall any kind of spirituous or fermented liquors be brought into the Penitentiary for the use of any Keeper or Guard on duty therein, or for the use of any convict confined therein.

Convicts not to be discharged if dangerously ill.

XLIV. And be it enacted, That no convict shall be discharged from the Penitentiary at the termination of his or her sentence, if he or she shall then labour under any dangerous illness (unless at his or her own request) until he or she can be safely discharged.

Officers exempted from certain duties.

XLV. And be it enacted, That the Warden of the Penitentiary, and all persons actually employed therein, shall be exempted, during their continuance in office, from serving on juries and from Militia duty, and also from serving as Town or Parish Officers.

Warden to be a Justice of the Peace for the Province.

XLVI. And be it enacted, That the Warden of the Penitentiary shall be by virtue of his office, and without any property qualification, a Justice of the Peace for each and every District in the Province of Canada; any law or statute to the contrary thereof notwithstanding.

Duties of Commissioners under 3 W. 4. c. 43. to be performed by Inspectors and Warden.

XLVII. And be it enacted, That the duties formerly performed by the Commissioners for building and completing the said Penitentiary, appointed by the Act passed by the Parliament of the late Province of Upper Canada, in the third year of the Reign of His late Majesty, William the Fourth, and intituled, *An Act granting to His Majesty a sum of money to defray the expense of erecting a Penitentiary in this Province, and for other purposes therein mentioned*, shall be assumed and performed by the Board of Inspectors, and Warden now appointed, or hereafter to be appointed in conformity to this Act.

XLVIII.

XLVIII. And be it enacted, That the said Board of Inspectors may employ some competent person as Architect and Master-builder, who shall, under the orders of the said Inspectors, superintend the erection of the several buildings and other works necessary for the completion of the said Penitentiary, and for whose services the said Inspectors are hereby empowered to pay such salary as they shall consider just and reasonable, not exceeding one hundred pounds.

Architect and builder may be employed.

XLIX. And be it enacted, That it shall be the duty of the Warden to receive into the said Penitentiary, and safely to keep therein, subject to the discipline thereof, any criminal convicted of any offence against our Sovereign Lady the Queen, sentenced to imprisonment therein by any Court of the Province, until such sentence be executed, or until such convict shall be discharged by due course of law.

Prisoners to be kept during their term of sentence.

L. And for the removal of all doubt, Be it declared and enacted, That if sentence of death has been or shall hereafter be passed upon any person by any Court in this Province, and Her Majesty's Royal Pardon shall have been or shall be extended to such person, on condition that he or she be imprisoned in the Provincial Penitentiary for life, or for any term of years in such pardon mentioned, such pardon hath and shall have the same effect as the judgment of a competent Court sentencing such person to such imprisonment for life or for such term, would have or would have had; and the production of such pardon, or a copy thereof, certified by the Provincial Secretary, shall authorize and make it the duty of the said Warden, and of all Sheriffs, Gaolers and other Officers and others whomsoever, to deal with such person in like manner as if such sentence as aforesaid had been rendered and a certified copy thereof produced.

Prisoners sentenced to death and pardoned conditionally may be sent to the Penitentiary.

LI. And be it enacted, That in case any prisoner shall escape or attempt to escape out of the custody of any Officer to whom such prisoner may have been committed for the purpose of being conveyed to the Penitentiary, he shall be liable to be punished therefor, and the Officer having such charge of such prisoner, shall be liable to the pains and penalties incident thereto, for any neglect or violation of duty in respect to the custody of such prisoner.

Officers in charge of prisoners punishable if they escape.

LII. And be it enacted, That no raft, craft, boat, or vessel of any description shall be allowed to moor or anchor within three hundred feet of the shore or wharf bounding the lands of the said Penitentiary, without the permission of the said Warden being first had and obtained therefor; and any person violating the provisions of this section shall, upon conviction thereof before a Justice of the Peace, be liable to pay a penalty of five pounds, to be levied by distress and sale of the offender's goods and chattels, under the warrant of such Justice, and in default of payment of the same, with the costs thereon, and if sufficient distress cannot be found, shall be imprisoned at the discretion of the said Justice, for any period not exceeding two calendar months.

Vessels or craft not to be moored too near the Penitentiary.

LIII. And be it enacted, That the sums necessary to pay the salaries and other expenses of the Penitentiary, shall be paid by the Receiver General of the Province, out of any unappropriated monies in his hands, forming part of the General Revenue Fund thereof, to the Warden, in discharge of such Warrant or Warrants

Appropriation for salaries and expenses.

as may be issued for that purpose by the Governor of this Province for the time being; and shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall be graciously pleased to direct.

Interpretation
clause.

LIV. And be it enacted, That in this Act, the word "Governor" is to be understood as comprehending the Governor, Lieutenant Governor, or person authorized to execute the office or functions of the Governor of the Province of Canada.

Repealing
clause.

U. C.
4 W. 4. c. 37.

U. C.
6 W. 4. c. 38.

U. C.
1 Vict. c. 54.

U. C.
3 Vict. c. 59.

Canada.
4 & 5 Vict. c.
69.
Other Acts.

Proviso.

LV. And be it enacted, That the Act of the Legislature of Upper Canada, passed in the fourth year of the Reign of His late Majesty, King William the Fourth, and intituled, *An Act to provide for the maintenance and government of the Provincial Penitentiary, erected near Kingston, in the Midland District*,—and the Act of the said Legislature, passed in the sixth year of the Reign last aforesaid, and intituled, *An Act granting a sum of money in support of the Provincial Penitentiary, and for other purposes therein mentioned*,—and the Act of the said Legislature, passed in the first year of Her Majesty's Reign, and intituled, *An Act to enable Her Majesty to remunerate Henry Smith, Esquire, Warden of the Provincial Penitentiary, for past services, performed, and disbursements made by him, and to increase the salary of that officer*,—and the Act of the said Legislature, passed in the third year of Her Majesty's Reign, and intituled, *An Act to provide for the support and maintenance of the Provincial Penitentiary*,—and the third, fourth and fifth sections of the Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to render the Penitentiary erected near Kingston, in the Midland District, the Provincial Penitentiary for Canada*; and all Acts or parts of Acts, or provisions of law in force in this Province, or any part thereof, immediately before the passing of this Act, which shall be inconsistent with or contradictory to this Act, or which make provision in any matter provided for by this Act, other than such as is hereby made in such matter, shall, from and after the passing of this Act be, and they are hereby repealed; but all Acts or parts of Acts repealed by them, or any of them shall, nevertheless, remain repealed; and nothing herein contained shall be construed to invalidate the appointment of any Inspector, Warden or Officer appointed under any Act or provision of law hereby repealed, but his appointment shall continue, (with the name of office, powers and duties assigned to his office by this Act, and subject to the provisions and enactments herein made, and as if he were appointed under this Act,) until he be removed or otherwise cease to hold such office: And all the provisions of this Act shall apply to any convict sentenced or to be sentenced to imprisonment in the Provincial Penitentiary, under the provisions of the Act last above cited, or of any other Act in force in any portion of this Province, as fully and effectually as the Acts hereby repealed, or any of them would have done if this Act had not been passed; nor shall any thing herein contained, repeal any unexpended appropriation of the public monies for any purpose relative to the said Provincial Penitentiary, and not provided for by this Act, and any offender against any Act hereby repealed may be prosecuted, or the prosecution may be continued, and such offender punished, as if such Act had not been repealed.



A N N O N O N O

VICTORIÆ REGINÆ.

CAP. V.

An Act to enforce the attendance of Witnesses before Magistrates in Lower Canada, in certain cases.

[18th May, 1846.]

WHEREAS in Lower Canada there exists no Law to enforce the attendance of Witnesses before Magistrates in certain cases; And whereas it is expedient to provide for the same: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That if any person, who shall be summoned as a Witness upon any complaint, information or investigation, lawfully brought before any Justice or Justices of the Peace, in that part of this Province which heretofore constituted the Province of Lower Canada, shall refuse or neglect to appear at the time by such summons appointed, having no just cause for such neglect or refusal allowed by such Justice or Justices, it shall be lawful for such Justice or Justices, on proof of such summons having been served, to issue a Warrant, under his hand and seal, or their hands and seals, to bring such persons before him or them; and if any Witness appearing, or on being brought under such Warrant as aforesaid, before any such Justice or Justices, shall refuse to be examined or to answer on oath such questions as may be lawfully put to such Witness concerning the matter before such Justice or Justices, without having some just cause for such refusal allowed as aforesaid, it shall be lawful for such Justice or Justices, by Warrant under his hand and seal, or their hands and seals, to commit such person to the Common Gaol of the District wherein the said Justice or Justices have jurisdiction, there to remain for any time not exceeding ten days, at the discretion of the Justice or Justices.

Preamble.

Justice may issue a warrant to bring before them persons summoned as witnesses and refusing to attend before them.

Justices may commit to gaol, witnesses refusing to be examined before them.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. VI.

An Act to facilitate the Conveyance of Real Property.

[18th May, 1846.]

WHEREAS it is expedient to facilitate the sale and conveyance of Real Property : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That whenever any party to any deed made according to the forms set forth in the first Schedule to this Act, or to any other deed which shall be expressed to be made in pursuance of this Act, or referring thereto, shall employ in any such deed respectively any of the forms or words contained in column one, of the second Schedule hereto annexed, and distinguished by any number therein, such deed shall be taken to have the same effect, and be construed as if such party had inserted in such deed the form of words contained in column two, of the same Schedule, and distinguished by the same number as is annexed to the form of words employed by such party ; but it shall not be necessary, in any such deed, to insert any such number.

Preamble.

Where the words of column 1 of the second Schedule are employed, the deed to have the same effect as if the words in column 2 were inserted.

II. And be it enacted, That every such deed, unless any exception be specially made therein, shall be held and construed to include all houses, out-houses, edifices, barns, stables, yards, gardens, orchards, commons, trees, woods, underwoods, mounds, fences, hedges, ditches, ways, waters, water-courses, lights, liberties, privileges, easements, profits, commodities, emoluments, hereditaments and appurtenances whatsoever, to the lands therein comprised, belonging or in any wise appertaining, or with the same demised, held, used, occupied and enjoyed, or taken or known as part or parcel thereof; and also the reversion or reversions, remainder and remainders, yearly and other rents, issues and profits of the same lands, and of every part and parcel thereof, and all the estate, right, title, interest, inheritance, use, trust, property, profit, possession, claim and demand whatsoever, both at law and in equity, of the grantor, in, to, out of, or upon the same lands, and every part and parcel thereof, with their and every of their appurtenances.

Deed to include all houses, &c., and the reversion and all the estate.

III.

Remuneration
for deeds under
the Act not to
be by length
only.

III. And be it enacted, That in taxing any bill for preparing and executing any deed under this Act, it shall be lawful for the taxing officer, and he is hereby required, in estimating the proper sum to be charged for such transaction, to consider not the length of such deed, but the skill and labour employed and responsibility incurred in the preparation thereof.

Deeds failing
to take effect
under this Act
to be as valid
as if Act not
made.

IV. And be it enacted, That any deed or part of a deed, which shall fail to take effect by virtue of this Act, shall, nevertheless, be as valid and effectual, and shall bind the parties thereto, so far as the rules of law and equity will permit, as if this Act had not been made.

Construction
of Act.

V. And be it enacted, That, in the construction, and for the purposes of this Act, and the Schedules hereto annexed, unless there be something in the subject or context repugnant to such construction, the word "lands" shall extend to all freehold tenements and hereditaments, whether corporeal or incorporeal, or any undivided part or share therein, respectively; and every word importing the singular number only shall extend and be applied to several persons or things as well as to one person or thing, and the converse; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; and the word "party" shall mean and include any body politic or corporate or collegiate as well as an individual.

Schedules, &c.
to form part
of Act.

VI. And be it enacted, That the Schedules, and the directions and forms therein contained, shall be deemed and taken to be parts of this Act.

Commence-
ment of Act.

VII. And be it enacted, That this Act shall only apply to deeds executed upon or after the First day of June next.

To extend
only to lands
in Upper Ca-
nada.

VIII. And be it enacted, That this Act shall only extend to lands in that part of the Province of Canada formerly Upper Canada.

SCHEDULES TO WHICH THIS ACT REFERS.

THE FIRST SCHEDULE.

This Indenture, made the day of one thousand eight hundred and , in pursuance of the Act to facilitate the conveyance of real property, between (*here insert names of parties and recitals, if any,*) Witnesseth, that in consideration of pounds, of lawful money of Canada, now paid by the said (*grantee or grantees*) to the said (*grantor or grantors*) (the receipt whereof is hereby by him (*or them*) acknowledged,) he (*or they the said grantor or grantors*) doth (*or do*) grant unto the said (*grantee or grantees*) his (*or their*) heirs and assigns for ever, all, &c., (*parcels.*) (*Here insert covenants, or any other provisions.*) In witness whereof the said parties hereto have hereunto set their hands and seals.

'THE

THE SECOND SCHEDULE.

DIRECTIONS AS TO THE FORMS IN THIS SCHEDULE.

1. Parties who use any of the forms in the first column of this Schedule may substitute for the words "covenantor" or "covenantee," or "releasor" or "releasee," or "grantor" or "grantee," any name or names, and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.

2. Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column of this Schedule, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

3. Such parties may introduce into, or annex to, any of the forms in the first column any express exceptions from, or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

4. Such parties may add the name or other designation of any person or persons, or class or classes of persons, or any other words, at the end of form two, of the first column, so as thereby to extend the words thereof to the acts of any additional person or persons, or class or classes of persons, or of all persons whomsoever; and in every such case the covenants two, three and four, or such of them as shall be employed in such deed, shall be taken to extend to the acts of the person or persons, class or classes of persons, so named.

COLUMN ONE.

1. The said (covenantor) covenants with the said (covenantee.)

2. That he has the right to convey the said lands to the said (covenantee) notwithstanding any act of the said (covenantor.)

3. And that the said (covenantee) shall have quiet possession of the said lands.

COLUMN TWO.

1. And the said covenantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree, with and to the said covenantee, his heirs and assigns, in manner following, (*that is to say* :)

2. That for and notwithstanding any act, deed, matter or thing, by the said covenantor, done, executed, committed, or knowingly or wilfully permitted or suffered to the contrary, he, the said covenantor, now hath in himself good right, full power, and absolute authority, to convey the said lands and other the premises hereby conveyed, or intended so to be, with their and every of their appurtenances, unto the said covenantee, in manner aforesaid, and according to the true intent of these presents.

3. And that it shall be lawful for the said covenantee, his heirs and assigns, from time to time and at all times hereafter, peaceably and quietly to enter upon, have, hold, occupy, possess and enjoy the said lands and premises

COLUMN ONE.

4. Free from all incumbrances.

5. And the said (*covenantor*) covenants with the said (*covenantee*) that he will execute such further assurances of the said lands as may be requisite.

COLUMN TWO.

mises hereby conveyed, or intended so to be, with thier and every of their appurtenances; and to have, receive, and take the rents, issues and profits thereof, and of every part thereof, to and for his and their use and benefit, without any let, suit, trouble, denial, eviction, interruption, claim or demand whatsoever of, from, or by him the said covenantor, or his heirs, or any person claiming, or to claim, by, from, under, or in trust for him, them, or any of them.

4. And that free and clear, and freely and absolutely acquitted, exonerated, and for ever discharged, or otherwise by the said covenantor or his heirs well and sufficiently saved, kept harmless, and indemnified of, from and against any and every former and other gift, grant, bargain, sale, jointure, dower, use, trust, entail, will, statute, recognizance, judgment, execution, extent, rent, annuity, forfeiture, re-entry, and any and every other estate, title, charge, trouble, and incumbrance whatsoever, made, executed, occasioned, or suffered by the said covenantor or his heirs, or by any person claiming, or to claim, by, from, under, or in trust for him, them, or any of them.

5. And the said covenantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise, and agree with, and to the said covenantee, his heirs and assigns, that he the said covenantor, his heirs, executors and administrators, and all and every other person whosoever having or claiming, or who shall or may hereafter have or claim, any estate, right, title or interest whatsoever, either at law or in equity, in, to, or out of, the said lands and premises hereby conveyed, or intended so to be or any of them, or any part thereof, by, from, under, or in trust for him, them, or any of them, shall and will, from time to time, and at all times hereafter, upon every reasonable request, and at the costs and charges of the said covenantee, his heirs or assigns, make, do, execute, or cause to be made, done, or executed, all such further and other lawful acts, deeds, things, devices, conveyances, and assurances in the law whatsoever, for the better, more perfectly, and absolutely conveying and assuring the said lands and premises hereby conveyed, or intended so to be, and every part thereof, with their appurtenances, unto the said covenantee, his heirs and assigns, in manner aforesaid, as by the said covenantee, his heirs and assigns, his or their counsel

COLUMN ONE.

6. And the said (*covenantor*) covenants with the said (*covenantee*) that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expense of the said (*covenantee*).

7. And the said (*covenantor*) covenants with the said (*covenantee*) that he has done no act to incumber the said lands.

COLUMN TWO.

counsel in the law, shall be reasonably devised, advised or required, so as no such further assurances contain or imply any further or other covenant or warranty than against the acts and deeds of the person who shall be required to make or execute the same, and his heirs, executors or administrators, only, and so as no person who shall be required to make or execute such assurances, shall be compellable for the making or executing thereof, to go or travel from his usual place of abode.

6. And the said covenantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree with and to the said covenantee, his heirs and assigns, that the said covenantor and his heirs shall and will, unless prevented by fire or other inevitable accident, from time to time, and at all times hereafter, at the request, costs and charges of the said covenantee, his heirs or assigns, or his or their attorney, solicitor, agent, or counsel, at any trial or hearing in any action or suit at law or in equity, or other judicature, or otherwise, as occasion shall require, produce all and every or any deed, instrument or writing hereunder written, for the manifestation, defence and support of the estate, title and possession of the said covenantee, his heirs and assigns, in, or to, the said lands and premises hereby conveyed, or intended so to be, and at the like request, costs and charges, shall and will make and deliver, or cause to be made and delivered, true and attested, or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds, by the said covenantee, his heirs and assigns, or such person as he or they shall for that purpose direct and appoint.

7. And the said covenantor, for himself, his heirs, executors and administrators, doth hereby covenant promise and agree with and to the said covenantee, his heirs and assigns, that he hath not at any time heretofore made, done, committed, executed, or willfully or knowingly suffered any act, deed, matter or thing whatsoever, whereby or by means whereof the said lands and premises hereby conveyed, or intended so to be, or any part or parcel thereof, are, is, or shall or may be in any wise impeached, charged, affected, or incumbered in title, estate or otherwise howsoever.

COLUMN ONE.

8. And the said (*releasor*) releases to the said (*releasee*) all his claims upon the said lands.

9. And the said (A. B.) wife of the said (*grantor*) hereby bars her dower in the said lands.

COLUMN TWO.

8. And the said releasor hath released, remised, and forever quitted claim, and by these presents doth release, remise, and forever quit claim, unto the said releasee, his heirs and assigns, all and all manner of right, title, interest, claim, and demand whatsoever, both at law and in equity, into and out of the said lands and premises hereby granted, or intended so to be, and every part and parcel thereof, so as that neither he nor his heirs, executors, administrators, or assigns, shall nor may, at any time hereafter, have, claim, pretend to, challenge, or demand the said lands and premises, or any part thereof, in any manner howsoever, but the said releasee, his heirs and assigns, and the same lands and premises shall from henceforth for ever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said releasor, might or could have upon him in respect of the said lands, or upon the said lands.

9. And the said (A. B.) wife of the said (*grantor*) for and in consideration of the sum of pounds, of the lawful money of Canada, to her in hand paid by the said (*grantee*) at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted and released, and by these presents doth grant and release unto the said (*grantee*) his heirs and assigns, all her dower and right and title which in the event of surviving her said husband, she might or would have to dower, in, to or out of the lands and premises hereby conveyed, or intended so to be.

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A N N O N O N O

VICTORIÆ REGINÆ.

C A P. V I I.

An Act to amend an Act passed during the last Session of this Parliament, intituled, *An Act to amend, consolidate and reduce into one Act the several laws now in force, establishing or regulating the practice of District Courts in the several Districts of that part of this Province, formerly Upper Canada.*

[18th May, 1846.]

WHEREAS it is necessary to amend the Schedule to an Act passed during the last Session of this Parliament, and intituled, *An Act to amend, consolidate and reduce into one Act the several Laws now in force, establishing or regulating the practice of District Courts in the several Districts of that part of this Province formerly Upper Canada*: Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in addition to the Fees set down and authorized in and by the said Schedule and the said Act, as Fees to be received by the Clerk and to belong and be paid over to the Fee fund, the Fees mentioned in Schedule A, to this Act annexed, shall and may also be demanded and received by the Clerk, and shall belong to and be paid over to the Fee fund, and that the Clerk shall be entitled to the Fees mentioned in the Schedule B, to this Act annexed, in addition to those already provided.

Preamble.

Additional fees to the fee fund and to the Clerk.

II. And be it enacted, That any Judge of a District Court shall, on motion to set aside any interlocutory Judgment, giving time to plead, and on application for security for costs, have the like power in vacation that he would have in term time.

Power of Judge in vacation extended.

III. And be it enacted, That the sixth Section of the said Act shall be repealed, and that the said Courts respectively shall hold four terms in each year, which shall severally commence on the Monday in the week next but three preceding the week in which the General Quarter Sessions are respectively holden, and shall end on Saturday of the same week; and every day in term shall be a return day, and that the first and last days of all periods limited by the said Act, or by any rule or order of the said Courts, shall be inclusive.

Sixth section of Act 8. Vict. c. 13. repealed, and District Courts to hold four terms in each year.

IV.

When this
Act shall take
effect.

IV. And be it enacted, That this Act shall take effect on the first day of June Term as it will be under this Act; and that all writs which may have issued before the passing of this Act returnable on the first day of June Term, shall be held to mean the first day of June Term, according to this Act.

SCHEDULE A.

Every Writ of Subpœna, six pence.

Every Judgment entered, five shillings.

Every Oath administered in open Court, one shilling.

SCHEDULE B.

Every Judgment entered, two shillings.

Taxing Costs, when no Judgment entered, one shilling and six pence.

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ANNO NONO
VICTORIÆ REGINÆ.

CAP. VIII.

An Act to prevent the opening of Government Allowances for Roads without an order from the District Council of the District in which the said Allowances are situate.

[18th May, 1846.]

WHEREAS in consequence of roads established by Law, parallel or near to Government allowances for roads and in lieu thereof, the said allowances for roads have for years remained closed and in the possession of private persons; And whereas great inconveniences may arise in consequence of the said allowances being thrown open without due notice thereof being given: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act no allowance for road shall be opened unless an Order ordering the same to be opened shall be first made by the District Council of the District in which the allowance is situated: Provided always, that no such Order shall be made unless a notice in writing that an application for that purpose will be made shall have been given to the party in possession of such allowance for road, at least eight days previous to the meeting of the District Council at which such application is intended to be made.

Preamble.

No Govern-
ment allow-
ance for roads
to be opened
unless by an
order of the
District Coun-
cil.

Proviso.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. IX.

An Act to explain and amend a certain Act therein mentioned, and to make further provision concerning Ferries in Upper Canada.

[18th May, 1846.]

WHEREAS it appears that the Act hereinafter mentioned hath been construed so as to prevent parties from conveying persons and goods in their own boats and vessels, and without hire or gain or hope thereof, across waters in Upper Canada within the limits of Ferries, contrary to the true intent and meaning of the said Act: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That nothing in the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act for the better enforcing the provisions of the Act of the Legislature of Upper Canada for the regulation of Ferries and for protecting the rights of the Lessees of Ferries*, shall be construed to prevent any person or persons whatsoever from using for his or their own accommodation, or for his or their employer's own accommodation, or their or his, or their employer's own boat, vessel or craft, at any Ferry in Upper Canada, to cross the river or stream on which such Ferry may be situate, without hire, gain, reward or profit, or hope thereof.

Preamble.

Act 8 Vict. c. 50, not to prevent parties using their own vessels to cross ferries.

II. And be it enacted, That no Ferry in Upper Canada shall hereafter be leased, nor shall the Lease thereof be renewed, or any License to act as a Ferryman thereat be granted, except by public competition, and to parties giving such security as may be required by the Governor in Council, and after notice of the time and place at which tenders will be received for the Lease or License for such Ferry, inserted at least four times in the course of four weeks in the *Canada Gazette*, and in one or more of the newspapers published in the District in which such Ferry shall be situate; nor shall any such Ferry be leased or the License thereof granted for a longer term than seven years at any one time.

Ferries to be leased by public competition and only for a limited time.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. X.

An Act to remove certain doubts as to the jurisdiction conferred upon the Court of Chancery in Upper Canada, in matters relating to Lunatics, Idiots, and persons of unsound mind, and their Estates; and to amend and extend the Laws in force in Upper Canada relating to Lunatics, Idiots, and persons of unsound mind, and their Estates.

[18th May, 1846.]

WHEREAS by the laws of England the custody, care and management of Lunatics, Idiots, and persons of unsound mind and their Property and Estates, does not of right belong to or form part of the jurisdiction of the Court of Chancery, but the same is conferred upon the Lord Chancellor or some other person or persons under and by a Commission from the Crown, under the Sign Manual; And whereas certain doubts have arisen as to the proper construction of the Act of the Parliament of that part of this Province heretofore Upper Canada, creating the Court of Chancery, in relation to the said matters; And whereas in consequence of certain proceedings being had in matters of lunacy in the said Court, it is expedient to remove such doubts; and for the better management and care of persons found to be Lunatic, Idiot, or of unsound mind in this Province, and for the preservation of their Estates from waste and destruction, and to provide more effectually for the disposal of their Estates for the payment of debts, and for the support of such persons, maintenance of their families, and education of their children, it is expedient to amend the laws of this Province in relation to the said several matters: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it was intended that the said Court of Chancery should have the like jurisdiction as given to the Lord Chancellor in England, or such other person or persons appointed as aforesaid in respect of the said matters, and that from and after the passing of this Act the said Court of Chancery shall, with a like power and authority as exercised by the Lord Chancellor in England, or such other person or persons as may be entrusted as aforesaid, have the care and custody of all Lunatics, Idiots, and persons of unsound

Preamble.

Court of
Chancery to
have same
power as
Lord Chancel-
lor of England,
with respect to
Lunatics, &c.



A N N O N O N O

V I C T O R I Æ R E G I N Æ.

C A P. X.

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Preamble.

Court of Chancery to have same power as Lord Chancellor of England, with respect to Lunatics, &c.

unsound mind in that part of the Province formerly Upper Canada, and of their real and personal Estates, so that the same shall not be wasted or destroyed; and shall provide for their safe keeping and maintenance, and for the maintenance of their families and education of their children, out of their personal Estates and real estates, respectively.

Mode of proceeding when parties are desirous of traversing any inquisition returned into the Court of Chancery.

II. And be it enacted, That when any person or persons shall be desirous of traversing any inquisition which shall be returned into the said Court of Chancery, by which any person hath been found Lunatic, Idiot, or of unsound mind, a petition for that purpose shall be presented to the said Court of Chancery within three calendar months, to be computed from the day of the return of such inquisition, and the said Court is hereby directed and required to hear and determine such petition; and the said Court shall, in every order to be made upon such petition, limit a time not exceeding six calendar months from the date of such order, within which the person or persons desiring to traverse as aforesaid, and all other proper parties are to proceed to the trial of the traverse to which such petition shall relate, which trial may be ordered to be had in any Court of Record in Upper Canada, according to the circumstances of the case and the situation of the parties, respectively; and it shall be lawful for the said Court in the case of every such traverse, upon the petition of any such person or persons as aforesaid, to make an order that the person or persons desiring to traverse as aforesaid, not being the party who upon such inquisition has been found Lunatic, Idiot, or of unsound mind, shall, within one month after the date of such order, give security by bond with one or more sureties, to the Registrar for the time being of the said Court of Chancery, to be filed within one month with the said Registrar, (which said security shall be approved of and certified to be sufficient by the Judge of the District Court in the District in which the parties shall reside, or by one of the Masters of the said Court of Chancery) for all proper parties proceeding to the trial of such traverse as aforesaid, within the time to be for that purpose limited as aforesaid.

Parties having a right to traverse, and not presenting their petition within a limited time, shall be barred of such right of traverse.

Unless Court of Chancery may see fit to allow such traverse.

III. And be it enacted, That every person having, or who shall hereafter have right to traverse any such inquisition as aforesaid, who shall not present his, her, or their petition for that purpose, to the said Court of Chancery, within the time hereinbefore limited, and applicable to his, her, or their case, or who shall refuse or neglect to give such security as aforesaid, or who shall not proceed to the trial of such traverse, within such time as shall be in that behalf limited or directed as aforesaid, and the heirs, executors and administrators of every such person, and all others claiming or to claim, by, through, or under him, her or them, shall be and are hereby absolutely barred of such right of traverse, unless the said Court shall, under the special circumstances of any particular case, think fit, upon a petition being presented to the said Court for that purpose (the circumstances of such particular case to be substantiated upon affidavit to be sworn before some Master or Master Extraordinary of the said Court, or any other person duly authorized to take affidavits in any Superior Courts of this Province), to allow such traverse to be had or tried after the time by this Act limited; in all which special cases, it shall be lawful for the said Court of Chancery to make such orders as shall seem just.

IV. And be it enacted, That it shall be lawful for the said Court of Chancery, if the said Court shall be dissatisfied with any verdict to be returned upon any such traverse as aforesaid, to order one or more new trials thereon, as to the said Court shall seem meet, and as is usual in cases of issues directed by the Court of Chancery; any thing herein contained to the contrary notwithstanding.

Court of Chancery may order new trials on any verdict returned upon a traverse.

V. And be it enacted, That in order to afford due protection to the property of persons found by inquisition to be Lunatic, Idiot, or of unsound mind in Upper Canada, and to prevent misapplication of the same, the Master who shall approve of and appoint a Committee of the estate, shall also approve of two or more responsible persons as sureties, in double the amount of the personal estate, and of the annual rents and profits of the real estates, for answering and duly accounting for the same, once in every year, or oftener if required by the said Court; and the said security shall be taken by bond or by recognizance in the name of the Registrar of the said Court for the time being, in such manner as the said Master shall direct, and the same shall be properly executed, and filed in the office of the Registrar of the said Court of Chancery.

Committees to find sureties for their accounting for the personal estates, rents and profits of the real estates of Lunatics, &c.

VI. And be it enacted, That every Committee of the estate of any such Lunatics, Idiots, and persons of unsound mind, shall, within six months after their appointment, file in the office of the Registrar of the said Court, a just and true inventory of the whole real and personal estate of such Lunatic, Idiot, or person of unsound mind, stating the income and profits thereof, and the debts, credits and effects, so far as the same shall have come to the knowledge of such Committee; And whenever any property belonging to such estate shall be discovered after the filing of any inventory, it shall be the duty of such Committee to file as aforesaid, a just and true account of the same from time to time, as the same shall be discovered; and all and every inventories shall be verified by the oath of the Committee to be taken before a Judge of any Court of Record in this Province, or before a Master or Master Extraordinary in Chancery, and the filing of such inventories may be compelled by the order and process of attachment, and other process of the said Court of Chancery.

An inventory of real and personal estate of Lunatics, &c., to be filed by Committee of the estate, in the office of the Registrar of the Court of Chancery.

VII. And be it enacted, That whenever the personal estate of any such Lunatic, Idiot, or person of unsound mind, shall not be sufficient for the discharge of his, her or their debts, it shall be the duty of the Committee of his or her estate to apply by petition to the said Court, praying for authority to mortgage, lease or sell, so much of the real estate of such Lunatic, Idiot or person of unsound mind, as shall be necessary for the payment of such debts; and such said petition shall set forth the particulars and amount of the estate real and personal of such Lunatic or person of unsound mind, the application which may have been made of any personal estate, and an account of the debts and demands existing against such estate, and the petition shall be referred to one of the Masters of the said Court to inquire into and report upon the matters therein contained, whose duty it shall be to inquire into the truth of the representations made, to hear all parties interested in such real estate, and to report thereon with all convenient speed, and upon the coming in of the said Report, and an examination of the matter, if it shall appear to the said Court, that the personal estate of such Lunatic, Idiot, or person of unsound mind, is not sufficient for the payment of his or her debts, and that the same

When personal estate of Lunatic, &c., is not sufficient to pay his debts, Committee may apply by petition for authority to dispose of real estate.

has



ANNO NONO
VICTORIÆ REGINÆ.

CAP. XI.

An Act for the substitution of more simple modes of Assurance in lieu of Fines and Recoveries.

[18th May, 1846.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That, in the construction of this Act, the word "lands" shall extend to advowsons, rectories, messuages, lands, tenements, rents, and hereditaments of any tenure, and whether corporeal or incorporeal, and any undivided share thereof; and the word "estate" shall extend to an estate in equity as well as at law, and shall also extend to any interest, charge, lien, or incumbrance in, upon, or affecting lands, either at law or in equity, and shall also extend to any interest, charge, lien or incumbrance in, upon, or affecting money subject to be invested in the purchase of lands; and the expression "base fee" shall mean exclusively that estate in fee simple into which an estate tail is converted where the issue in tail are barred, but persons claiming estates by way of remainder or otherwise are not barred; and the expression "estate tail," in addition to its usual meaning, shall mean a base fee into which an estate tail shall have been converted; and the expression "actual tenant in tail" shall mean exclusively the tenant of an estate tail which shall not have been barred, and such tenant shall be deemed an actual tenant in tail, although the estate tail may have been divested or turned to a right; and the expression "tenant in tail" shall mean, not only an actual tenant in tail, but also a person who, where an estate tail shall have been barred and converted into a base fee, would have been tenant of such estate tail if the same had not been barred; and the expression "tenant in tail entitled to a base fee," shall mean a person entitled to a base fee, or to the ultimate beneficial interest in a base fee, and who, if the base fee had not been created, would have been actual tenant in tail; and the expression "money subject to be invested in the purchase of lands" shall include money, whether raised or to be raised, and whether the amount thereof be or be not ascertained, and shall extend to stocks and funds, and real and other securities, the produce of which is directed to be invested in the purchase of lands, and the lands to be purchased with such money or produce shall extend to lands of any

Meaning of certain words and expressions.

"Lands."

"Estate."

"Base fee."

"Estate tail."

"Actual tenant in tail."

"Tenant in tail."

"Tenant in tail, entitled to a base fee."

"Money."

" Person."

Number and
gender.

Settlement.

Proviso.

Estates tail
and estates ex-
pectant there-
on, no longer
barrable by
warranty.

Power, after
the 1st of July,
1846, to dis-
pose of lands
entailed in fee
simple or for a
less estate,
saving the
rights of cer-
tain persons.

Power of dis-
position not
to be exercised
by women ten-
ants in tail ex
provisione viri,
under 11 H. 7.
c. 20. except
with assent.

any tenure out of this Province, where such lands or any of them are within the scope or meaning of the trust or power directing or authorizing the purchase; and the word "person" shall extend to a body politic, corporate or collegiate, as well as an individual; and every word importing the singular number only shall extend and be applied to several persons or things, as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing, as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; and every assurance already made or hereafter to be made whether by deed, will, private Act of Parliament, or otherwise, by which lands are or shall be entailed, or agreed or directed to be entailed, shall be deemed a settlement; and every appointment made in exercise of any power contained in any settlement, or of any other power arising out of the power contained in any settlement, shall be considered as a part of such settlement, and the estate created by such appointment shall be considered as having been created by such settlement; and, where any such settlement is or shall be made by will, the time of the death of the testator shall be considered the time when such settlement was made: Provided always, that those words and expressions occurring in this clause, to which more than one meaning is to be attached, shall not have the different meanings given to them by this clause in those cases in which there is any thing in the subject or context repugnant to such construction.

II. And be it enacted, That all warranties of lands which, after the first day of July, one thousand eight hundred and forty-six, shall be made or entered into by any tenant in tail thereof, shall be absolutely void against the issue in tail, and all persons whose estates are to take effect after the determination or in defeasance of the estate tail.

III. And be it enacted, That after the first day of July, one thousand eight hundred and forty-six, every actual tenant in tail, whether in possession, remainder, contingency, or otherwise, shall have full power to dispose of, for an estate in fee simple absolute, or for any less estate, the lands entailed, as against all persons claiming the lands entailed by force of any estate tail which shall be vested in or might be claimed by, or which, but for some previous act would have been vested in, or might have been claimed by, the person making the disposition, at the time of his making the same, and also as against all persons, including the Queen's Most Excellent Majesty, Her Heirs and Successors, whose estates are to take effect after the determination, or in defeasance of any such estate tail; saving always the rights of all persons in respect of estates prior to the estate tail in respect of which such disposition shall be made, and the rights of all other persons except those against whom such disposition is by this Act authorized to be made.

IV. Provided always, and be it enacted, That where, under any settlement made before the passing of this Act, any woman shall be tenant in tail of lands within the provisions of an Act passed in the eleventh year of the Reign of His Majesty King Henry the Seventh, intituled, *Certain alienations made by the wife, of the lands of her deceased husband shall be void*, the power of disposition hereinbefore contained as to such lands, shall not be exercised by her, except with such
assent

assent as, if this Act had not been passed, would, under the provisions of the said Act of King Henry the Seventh, have rendered valid a fine or common recovery levied or suffered by her of such lands.

V. Provided always, and be it enacted, That, except as to lands comprised in any settlement made before the passing of this Act, the said Act of the eleventh year of the Reign of His Majesty King Henry the Seventh, shall be of no force in that part of this Province to which this Act extends.

Except, &c.

11 H. 7. c. 20.
to have no
force in U. C.

VI. Provided always, and be it enacted, That the power of disposition hereinbefore contained shall not extend to tenants of estates tail, who, by an Act passed in the thirty-fourth and thirty-fifth years of the Reign of His Majesty King Henry the Eighth, intituled, *An Act to embar feigned recovery of lands wherein the King is in reversion*, or by any other Act, are restrained from barring their estates tail, or to tenants in tail after possibility of issue extinct.

The power of
disposition not
to extend to
certain tenants
in tail.

VII. And be it enacted, That after the first day of July, one thousand eight hundred and forty-six, in every case in which an estate tail in any lands shall have been barred and converted into a base fee, either before or on or after that day, the person who, if such estate tail had not been barred, would have been actual tenant in tail of the same lands, shall have full power to dispose of such lands as against all persons, including the Queen's Most Excellent Majesty, Her Heirs and Successors, whose estates are to take effect after the determination, or in defeasance of the base fee into which the estate tail shall have been converted, so as to enlarge the base fee into a fee simple absolute; saving always the rights of all persons, in respect of estates prior to the estate tail which shall have been converted into a base fee, and the rights of all other persons, except those against whom such disposition is by this Act authorized to be made.

Power, after
the 1st of July,
1846, to en-
large base
fees, saving
the rights of
certain per-
sons.

VIII. Provided always, and be it enacted, That nothing in this Act contained shall enable any person to dispose of any lands entailed in respect of any expectant interest which he may have as issue inheritable to any estate tail therein.

Issue inherita-
ble not to bar
expectancies.

IX. Provided always, and be it enacted, That, if a tenant in tail of lands shall make a disposition of the same, under this Act, by way of mortgage, or for any other limited purpose, then, and in such case, such disposition shall, to the extent of the estate thereby created, be an absolute bar in equity, as well as at law, to all persons as against whom such disposition is by this Act authorized to be made, notwithstanding any intention to the contrary may be expressed or implied in the deed by which the disposition may be effected: Provided always, that, if the estate created by such disposition shall be only an estate *per autre vie*, or for years, absolute or determinable; or if, by a disposition under this Act by a tenant in tail of lands, an interest, charge, lien, or incumbrance, shall be created without a term of years, absolute or determinable, or any greater estate, for securing or raising the same, then such disposition shall, in equity, be a bar only so far as may be necessary to give full effect to the mortgage, or to such other limited purpose, or to such interests, lien, charge, or incumbrance, notwithstanding any intention to the contrary may be expressed or implied in the deed by which the disposition may be effected.

Extent of the
estate created
by a tenant in
tail by way of
mortgage, or
for any other
limited pur-
pose.

Proviso.

The owner of the first existing estate under settlement, prior to an estate tail under the same settlement, to be the protector of the settlement.

X. And be it enacted, That, if at the time when there shall be a tenant in tail of lands under a settlement, there shall be subsisting in the same lands, or any of them, under the same settlement, any estate for years, determinable on the dropping of a life or lives, or any greater estate (not being an estate for years) prior to the estate tail, then the person who shall be the owner of the prior estate, or the first of such prior estates, if more than one, then subsisting under the same settlement, or who would have been so if no absolute disposition thereof had been made (the first of such prior estates, if more than one, being, for all the purposes of this Act, deemed the prior estate), shall be the protector of the settlement, so far as regards the lands in which such prior estate shall be subsisting, and shall, for all the purposes of this Act be deemed the owner of such prior estate, although the same may have been charged or incumbered, either by the owner thereof or by the settler, or otherwise howsoever, and although the whole of the rents and profits be exhausted, or required for the payment of the charges and incumbrances on such prior estate, and although such prior estate may have been absolutely disposed of by the owner thereof, or by or in consequence of the bankruptcy or insolvency of such owner, or by any other act or default of such owner; and that an estate by the curtesy or in dower, in respect of the estate tail, or of any prior estate created by the same settlement, shall be deemed a prior estate under the same settlement, within the meaning of this clause; and that an estate by way of resulting use or trust to or for the settler, shall be deemed an estate under the same settlement, within the meaning of this clause.

Each of two or more owners of a prior estate to be the sole protector as to his share.

XI. Provided always, and be it enacted, That, where two or more persons shall be owners, under a settlement within the meaning of this Act, of a prior estate, the sole owner of which estate, if there had been only one, would, in respect thereof, have been the protector of such settlement, each of such persons, in respect of such undivided share as he could dispose of, shall, for all the purposes of this Act, be deemed the owner of a prior estate, and shall, in exclusion of the other or others of them, be the sole protector of such settlement, to the extent of such undivided share.

Where a married woman alone shall be the protector, and where she and her husband together shall be protector.

XII. Provided always, and be it enacted, That, where a married woman would, if single, be the protector of a settlement in respect of a prior estate, which is not thereby settled or agreed, or directed to be settled to her separate use, she and her husband together shall, in respect of such estate, be the protector of such settlement, and shall be deemed one owner; but, if such prior estate shall by such settlement have been settled or agreed, or directed to be settled to her separate use, then, and in such case, she alone shall, in respect of such estate, be the protector of such settlement.

As to estates confirmed or restored by settlement.

XIII. Provided always, and be it enacted, That, except in the case of a lease hereinafter provided for, where an estate shall be limited by a settlement, by way of confirmation, or where the settlement shall merely have the effect of restoring an estate; in either of those cases, such estates shall, for the purposes of this Act, so far as regards the protector of the settlement, be deemed an estate subsisting under such settlement.

XIV. Provided always, and be it enacted, That, where a lease at a rent shall be created or confirmed by a settlement, the person in whose favour such lease shall be created or confirmed, shall not, in respect thereof, be the protector of such settlement.

As to leases at rent created by settlement.

XV. Provided always, and be it enacted, That no woman in respect of her dower, and (except in the case hereinafter provided for, of a bare trustee under a settlement made on or before the first day of July, one thousand eight hundred and forty-six), no bare trustee, heir, executor, administrator, or assign, in respect of any estate taken by him as such bare trustee, heir, executor, administrator, or assign, shall be the protector of a settlement.

No tenant in dower, heir, executor, &c., to be protector, except in the case of a bare trustee.

XVI. Provided always, and be it enacted, That where, under any settlement, there shall be more than one estate prior to an estate tail, and the person who shall be the owner, within the meaning of this Act, of any such prior estate, in respect of which, but for the two last preceding clauses, or either of them, he would have been the protector of the settlement, shall, by virtue of such clauses, or either of them, be excluded from being the protector; then, and in such case, the person (if any) who, if such estate did not exist, would be the protector of the settlement, shall be such protector.

Who shall be the protector where the owner of the prior estate shall, by the two last clauses, be excluded.

XVII. Provided always, and be it enacted, That, where already, or on or before the first day of July, one thousand eight hundred and forty-six, an estate under a settlement shall have been disposed of, either absolutely or otherwise, and either for valuable consideration or not, the person who in respect of such estate would, before the first day of January, one thousand eight hundred and thirty-four, have been the proper person to have made the tenant to the writ of entry or other writ for suffering a common recovery of the lands entailed by such settlement, shall, during the continuance of the estate which conferred the right to make the tenant to such writ of entry or other writ, be the protector of such settlement.

Where, in the disposition of an estate before the 1st July, 1846, the person to make the tenant to the writ of entry in a recovery shall be the protector.

XVIII. Provided always, and be it enacted, That, where any person having, either already, or on or before the first day of July, one thousand eight hundred and forty-six, either for valuable consideration or not, disposed of, either absolutely or otherwise, a remainder or reversion in fee in any lands, or created any estate out of such remainder or reversion, would, under this Act, if this clause had not been inserted, have been the protector of the settlement by which the lands were entailed in which such remainder or reversion may be subsisting, and thereby be enabled to concur in the barring of such remainder or reversion, which he could not have done if he had not become such protector; then, and in every such case, the person who, before the first day of January, one thousand eight hundred and thirty-four, would have been the proper person to have made the tenant to the writ of entry or other writ for suffering a common recovery of such lands, shall, during the continuance of the estate which conferred the right to make the tenant to such writ of entry or other writ, be the protector of such settlement.

Where, in the case of the disposition of a reversion on or before the 1st July, 1846, the person to make the tenant to the writ of entry in a recovery shall be the protector.

XIX. Provided always, and be it enacted, That where, under any settlement of lands made before the first day of January, one thousand eight hundred and thirty-four, the person who, if this Act had not been passed, would have been the proper person

Where a bare trustee, under a settlement made before the 1st of January, 1834,

A voidable estate by a tenant in tail, in favor of a purchaser, confirmed by a subsequent disposition of such tenant in tail under this Act, but not against a purchaser without notice.

XXVI. Provided always, and be it enacted, That when a tenant in tail of lands under a settlement shall have already created or shall hereafter create in such lands, or any of them, a voidable estate in favour of a purchaser for valuable consideration, and shall afterwards, under this Act, by any assurance other than a lease not requiring enrolment, made a disposition of the lands in which such voidable estate shall be created, or any of them, such disposition, whatever its object may be, and whatever may be the extent of the estate intended to be thereby created, shall, if made by the tenant in tail with the consent of the protector (if any) of the settlement, or by the tenant in tail alone, if there shall be no such protector, have the effect of confirming such voidable estate in the lands thereby disposed of to its full extent as against all persons except those whose rights are saved by this Act ; but if, at the time of making the disposition, there shall be a protector of the settlement, and such protector shall not consent to the disposition, and the tenant in tail shall not without such consent be capable under this Act of confirming the voidable estate to its full extent, then and in such case such disposition shall have the effect of confirming such voidable estate so far as such tenant in tail would then be capable under this Act of confirming the same without such consent : Provided always, that, if such disposition shall be made to a purchaser for valuable consideration, who shall not have express notice of the voidable estate, then and in such case the voidable estate shall not be confirmed as against such purchaser and the persons claiming under him.

Base fees, when united with the immediate reversions, enlarged instead of being merged.

XXVII. And be it enacted, That, if a base fee in any lands, and the remainder or reversion in fee in the same lands, shall, at the time of the passing of this Act, or at any time afterwards, be united in the same person, and at any time after the passing of this Act there shall be no intermediate estate between the base fee and the remainder or reversion, then and in such case the base fee shall not merge, but shall be *ipso facto* enlarged into as large an estate as the tenant in tail, with the consent of the protector, if any, might have created by any disposition under this Act if such remainder or reversion had been vested in any other person.

Tenant in tail to make a disposition by deed, but not by will or contract, and, if a married woman, with her husband's concurrence.

XXVIII. And be it enacted, That every disposition of lands under this Act by a tenant in tail thereof shall be effected by some one of the assurances (not being a will) by which such tenant in tail could have made the disposition if his estate were an estate at law in fee simple absolute : Provided nevertheless, that no disposition by a tenant in tail shall be of any force, either at law or in equity, under this Act, unless made or evidenced by deed ; and that no disposition by a tenant in tail resting only in contract, either express or implied, or otherwise, and whether supported by a valuable or meritorious consideration or not, shall be of any force at law or in equity under this Act, notwithstanding such disposition shall be made or evidenced by deed ; and, if the tenant in tail making the disposition shall be a married woman, the concurrence of her husband shall be necessary to give effect to the same ; and any deed which may be executed by her for effecting the disposition shall be acknowledged by her as hereinafter directed.

Every assurance by a tenant in tail, except a lease not exceeding 21 years at a

XXIX. Provided always, and be it enacted, That no assurance by which any disposition of lands shall be effected under this Act by a tenant in tail thereof (except a lease for any term not exceeding twenty-one years, to commence from the date of such lease, or from any time not exceeding twelve calendar months from the date

date of such lease, where a rent shall be thereby reserved, which, at the time of granting such a lease, shall be a rack-rent, or not less than five sixth parts of a rack-rent,) shall have any operation under this Act unless it be registered in the Registry Office of the county or counties wherein the lands referred to shall lie, within six calendar months after the execution thereof.

rack-rent, or not less than five sixths of a rack-rent, to be inoperative unless registered within six months.

XXX. And be it enacted, That the consent of the protector of a settlement to the disposition under this Act of a tenant in tail, shall be given either by the same assurance by which the disposition shall be effected, or by a deed distinct from the assurance, and to be executed either on or at any time before the day on which the assurance shall be made, otherwise the consent shall be void.

Consent of protector by the same or a distinct deed.

XXXI. And be it enacted, That, if the protector of a settlement shall, by a distinct deed, give his consent to the disposition of a tenant in tail, it shall be considered that such protector has given an absolute and unqualified consent, unless in such deed he shall refer to the particular assurance by which the disposition shall be effected, and shall confine his consent to the disposition thereby made.

If by distinct deed.

XXXII. And be it enacted, That it shall not be lawful for the protector of a settlement, who, under this Act, shall have given his consent to the disposition of a tenant in tail, to revoke such consent.

Protector not to revoke his consent.

XXXIII. And be it enacted, That any married woman, being, either alone or jointly with her husband, protector of a settlement, may, under this Act, in the same manner as if she were a feme-sole, give her consent to the disposition of a tenant in tail.

A married woman protector.

XXXIV. Provided always, and be it enacted, That the consent of a protector to the disposition of a tenant in tail shall, if given by a deed distinct from the assurance by which the disposition shall be effected by the tenant in tail, be void, unless such deed be registered in the Registry Office of the county or counties wherein the lands referred to shall lie, either at or before the time when the assurance shall be registered.

Consent by distinct deed void, unless registered with or before assurance.

XXXV. And be it enacted, That, in cases of dispositions of lands under this Act by tenants in tail thereof, and also in cases of consents by protectors of settlements to dispositions of lands under this Act by tenants in tail thereof, the jurisdiction of Courts of Equity shall be altogether excluded, either on the behalf of a person claiming for a valuable or meritorious consideration, or not, in regard to the specific performance of contracts and the supplying of defects in the execution either of the powers of disposition given by this Act to tenants in tail, or of the powers of consent given by this Act to protectors of settlements, and the supplying under any circumstances of the want of execution of such powers of disposition and consent respectively, and in regard to giving effect in any other manner to any act or deed by a tenant in tail or protector of a settlement, which, in a court of law, would not be an effectual disposition or consent under this Act; and that no disposition of lands under this Act by a tenant in tail thereof, in equity, and no consent by a protector of a settlement to a disposition of lands under this Act, by a tenant in tail thereof, in equity, shall be of any force, unless such disposition or consent would, in case

Courts of Equity excluded from giving any effect to dispositions by tenants in tail, or consents of protectors of settlements which in Courts of Law would not be effectual.

of

of an estate tail at law, be an effectual disposition or consent under this Act in a court of law.

Vice Chancellor, &c., to have power to consent to a disposition by a tenant in tail, and to make such orders as shall be thought necessary; and if any other person shall be joint protector, the disposition not to be valid without his consent.

XXXVI. Provided always, and be it enacted, That in every case in which the Vice Chancellor of Upper Canada, or other the person or persons intrusted with the care and commitment of the custody of the persons and estates of persons found lunatic, idiot, and of unsound mind, or Her Majesty's said Court of Chancery, shall be the protector of a settlement, such Vice Chancellor, or person or persons so intrusted as aforesaid, or the said Court of Chancery (as the case may be,) while protector of such settlement, shall, on the motion or petition in a summary way, by a tenant in tail under such settlement, have full power to consent to a disposition, under this Act, by such tenant in tail; and the disposition to be made by such tenant in tail upon such motion or petition as aforesaid, shall be such as shall be approved of by such Vice Chancellor, or person or persons so intrusted as aforesaid, or the said Court of Chancery (as the case may be); and it shall be lawful for such Vice Chancellor, or person or persons so intrusted as aforesaid, or the said Court of Chancery (as the case may be), to make such orders in the matter as shall be thought necessary; and if such Vice Chancellor, or person or persons so intrusted as aforesaid, or the said Court of Chancery (as the case may be), shall, in lieu of any such person as aforesaid, be the protector of a settlement, and there shall be any other person protector of the same settlement jointly with such person as aforesaid, then and in every such case the disposition by the tenant in tail, though approved of as aforesaid, shall not be valid, unless such other person, being protector as aforesaid, shall consent thereto in the manner in which the consent of the protector is by this Act required to be given.

Order of the Vice Chancellor, &c., to be evidence of consent.

XXXVII. Provided always, and be it enacted, That in every case in which the Vice Chancellor, or other person or persons intrusted with the care and commitment of the custody of the persons and estates of persons found lunatic, idiot, and of unsound mind, or Her Majesty's said Court of Chancery, shall be the protector of a settlement, no document or instrument, as evidence of the consent of such protector to the disposition of a tenant in tail under such settlement, shall be requisite beyond the order in obedience to which the disposition shall have been made.

The Judge or Commissioner, in the case of an actual tenant in tail becoming bankrupt after the 1st July, 1846, by deed to dispose of the lands of the bankrupt to a purchaser.

Proviso.

XXXVIII. And be it enacted, That any Judge or Commissioner acting in the execution of any Commission of Bankruptcy, which, after the first day of July, one thousand eight hundred and forty-six, shall be issued in pursuance of the laws of this Province, under which any person shall be adjudged a bankrupt, who at the time of issuing such commission, or at any time afterwards, before he shall have obtained his certificate, shall be an actual tenant in tail of lands of any tenure, shall by deed dispose of such lands to a purchaser for valuable consideration, for the benefit of the creditors of such actual tenant in tail, and shall create by any such disposition as large an estate in the lands disposed of as the actual tenant in tail, if he had not become bankrupt, could have done under this Act at the time of such disposition: Provided always, that if, at the time of the disposition of such lands, or any of them, by such Judge or Commissioner as aforesaid, there shall be a protector of the settlement by which the estate of such actual tenant

tenant in tail in the lands disposed of by such Judge or Commissioner was created, and the consent of such protector would have been requisite to have enabled the actual tenant in tail, if he had not become bankrupt, to have disposed of such lands to the full extent to which, if there had been no such protector, he could under this Act have disposed of the same, and such protector shall not consent to the disposition, then and in such case, the estate created in such lands, or any of them, by the disposition of such Judge or Commissioner, shall be as large an estate as the actual tenant in tail, if he had not become bankrupt, could at the time of such disposition have created under this Act in such lands without the consent of the protector.

XXXIX. And be it enacted, That any Judge or Commissioner acting in the execution of any such commission as aforesaid, under which any person shall be adjudged a bankrupt, who at the time of issuing such commission, or at any time afterwards, before he shall have obtained his certificate, shall be a tenant in tail entitled to a base fee in lands of any tenure, shall by deed dispose of such lands to a purchaser for valuable consideration, for the benefit of the creditors of the person so entitled as aforesaid, provided at the time of the disposition there be no protector of the settlement by which the estate tail converted into the base fee was created; and by such disposition the base fee shall be enlarged into as large an estate as the same could, at the time of such disposition, have been enlarged into under this Act, by the person so entitled if he had not become bankrupt.

Judge or Commissioner, in case of a tenant in tail entitled to a base fee becoming bankrupt, and of there being no protector, by deed to dispose of the lands of the bankrupt to a purchaser.

XL. And be it enacted, That the Judge or Commissioner acting in the execution of any such commission as aforesaid, under which a person being, or before obtaining his certificate becoming, an actual tenant in tail of lands of any tenure, or tenant in tail entitled to a base fee in lands of any tenure, shall be adjudged a bankrupt, shall, if there shall be a protector of the settlement by which the estate tail of such actual tenant in tail, or the estate tail converted into a base fee (as the case may be), was created, stand in the place of such actual tenant in tail, or tenant in tail so entitled as aforesaid, so far as regards the consent of such protector; and the disposition of such lands, or any of them, by such Judge or Commissioner as aforesaid, if made with the consent of such protector, shall, whether such Commissioner may have made under this Act a prior disposition of the same lands, without the consent of such protector or not, or whether a prior sale or conveyance of the same lands shall have been made or not, under any Acts now in force or hereafter to be passed concerning bankrupts, have the same effect as such disposition would have had if such actual tenant in tail, or tenant in tail so entitled as aforesaid, had not become bankrupt, and such disposition had been made by him under this Act, with the consent of such protector; and all the previous clauses in this Act, in regard to the consent of the protector to the disposition of a tenant in tail of lands held under any tenure, and in regard to the time and manner of giving such consent, and in regard to the registration of the deed of consent, where such deed shall be distinct from the assurance by which the disposition of the Judge or Commissioner shall be effected, shall, except so far as the same may be varied by the clause next hereinafter contained, apply to every consent that may be given by virtue of this present clause.

As to the consent of the protector in case of Bankruptcy.

As to the registration of the deed of disposition of lands.

XLI. And be it enacted, That every deed, by which any Judge or Commissioner, acting in the execution of any such commission as aforesaid, shall, under this Act, dispose of lands, shall be void unless registered in the Registry Office of the county or counties in which the lands therein referred to shall lie, within six calendar months after the execution thereof.

Subsequent enlargement of base fees created by the disposition of the Judge or Commissioner.

XLII. And be it enacted, That, if any Judge or Commissioner, acting in the execution of any such commission as aforesaid, shall, under this Act, dispose of any lands of any tenure of which the bankrupt shall be actual tenant in tail, and in consequence of there being a protector of the settlement by which the estate of such actual tenant in tail was created, and of his not giving his consent, only a base fee shall by such disposition be created in such lands, and if at any time afterwards during the continuance of the base fee there shall cease to be a protector of such settlement, then and in such case, and immediately thereupon, such base fee shall be enlarged into the same estate into which the same could have been enlarged under this Act, if, at the time of the disposition by such Judge or Commissioner as aforesaid, there had been no such protector.

Enlargement of base fees subsequent to the sale or conveyance of the same under the bankrupt laws.

XLIII. And be it enacted, That, if a tenant in tail entitled to a base fee in lands of any tenure shall be adjudged a bankrupt, at the time when there shall be a protector of the settlement by which the estate tail converted into the base fee was created, and if such lands shall be sold or conveyed under any Acts now in force or hereafter to be passed concerning bankrupts, and if at any time afterwards during the continuance of the base fee in such lands there shall cease to be a protector of such settlement, then and in such case, and immediately thereupon, the base fee in such lands shall be enlarged into the same estate into which the same could have been enlarged under this Act, if at the time of the adjudication of such bankruptcy there had been no such protector, and the Judge or Commissioner, acting in the execution of the commission under which the tenant in tail so entitled shall have been adjudged a bankrupt, had disposed of such lands under this Act.

A voidable estate created in favour of a purchaser by an actual tenant in tail becoming bankrupt, or by a tenant in tail entitled to a base fee, becoming bankrupt, confirmed by the disposition of the Judge or Commissioner, if no protector, or being such with his consent or on their ceasing to be a protector; but not against a purchaser, without notice.

XLIV. Provided always, and be it enacted, That, where an actual tenant in tail of lands of any tenure, or a tenant in tail entitled to a base fee in lands of any tenure, shall have already created or shall hereafter create in such lands, or any of them, a voidable estate in favour of a purchaser for valuable consideration, and such actual tenant in tail, or tenant in tail so entitled as aforesaid, shall be adjudged a bankrupt under any such commission as aforesaid, and the Judge or Commissioner acting in the execution of such commission shall make any disposition under this Act of the lands in which such voidable estate shall be created, or any of them then and in such case, if there shall be no protector of the settlement by which the estate tail of the actual tenant in tail, or the estate tail converted into a base fee, as the case may be, was created, or being such protector he shall consent to the disposition by such Judge or Commissioner as aforesaid, whether such Judge or Commissioner may have made under this Act a previous disposition of such lands or not, or whether a prior sale or conveyance of the same lands shall have been made or not under any Acts now in force or hereafter to be passed concerning bankrupts, the disposition by such Judge or Commissioner shall have the effect of confirming such voidable estate in the lands thereby disposed of to its full extent as against all persons except those whose rights are saved by this Act; and if at the time

time of the disposition by such Judge or Commissioner, in the case of an actual tenant in tail, there shall be a protector, and such protector shall not consent to the disposition by such Judge or Commissioner, and such actual tenant in tail, if he had not been adjudged a bankrupt, would not without such consent have been capable under this Act of confirming the voidable estate to its full extent, then and in such case such disposition shall have the effect of confirming such voidable estate so far as such actual tenant in tail, if he had not been adjudged a bankrupt, could at the time of such disposition have been capable under this Act of confirming the same without such consent; and if at any time after the disposition of such lands by such Judge or Commissioner, and while only a base fee shall be subsisting in such lands, there shall cease to be a protector of such settlement, and such protector shall not have consented to the disposition by such Judge or Commissioner, then and in such case such voidable estate, so far as the same may not have been previously confirmed, shall be confirmed to its full extent as against all persons except those whose rights are saved by this Act: Provided always, that if the disposition by any such Judge or Commissioner as aforesaid shall be made to a purchaser for valuable consideration, who shall not have express notice of the voidable estate, then and in such case the voidable estate shall not be confirmed against such purchaser and the persons claiming under him.

Previous.

XLV. And be it enacted, That all acts and deeds done and executed by a tenant in tail of lands, of any tenure, who shall be adjudged a bankrupt under any such commission as aforesaid, and which shall affect such lands or any of them, and which, if he had been seized of or entitled to such lands in fee simple absolute, would have been void against the assignees of the bankrupt's estate, and all persons claiming under them, shall be void against any disposition which may be made of such lands under this Act by such Judge or Commissioner as aforesaid.

Acts of a bankrupt tenant in tail void against any disposition under this Act by the Judge or Commissioner.

XLVI. Provided always, and be it enacted, That, subject and without prejudice to the powers of disposition given by this Act to the Judge or Commissioner acting in the execution of any such commission as aforesaid, under which a person being, or before obtaining his certificate becoming, an actual tenant in tail of lands of any tenure, or a tenant in tail entitled to a base fee in lands of any tenure shall be adjudged a bankrupt, and also subject and without prejudice to the estate in such lands which may be vested in the assignees of the bankrupt's estate, and also subject and without prejudice to the rights of all persons claiming under the said assignees in respect of such lands or any of them, such actual tenant in tail, or tenant in tail so entitled as aforesaid, shall have the same powers of disposition under this Act in regard to such lands as he would have had if he had not become bankrupt.

Subject to the powers given to the Judge or Commissioner, and to the estate vested in the assignees, a bankrupt tenant in tail shall retain his powers of disposition.

XLVII. And be it enacted, That any disposition under this Act of lands of any tenure by any Judge or Commissioner acting in the execution of any such commission as aforesaid, under which a person being, or before obtaining his certificate becoming, an actual tenant in tail of such lands, or a tenant in tail entitled to a base fee in such lands, shall be adjudged a bankrupt, shall, although the bankrupt be dead at the time of the disposition, be in the following cases as valid and effectual as the same would have been, and have the same operation under this Act as the same would have had, if the bankrupt were alive; that is to say, in case,

The disposition by the Judge or Commissioner of the lands of a bankrupt tenant in tail shall, if the bankrupt be dead, have in the cases hereinafter mentioned

at

the same operation as if he were alive.

at the time of the bankrupt's decease, there shall be no protector of the settlement by which the estate tail of the actual tenant in tail, or the estate tail converted into a base fee, as the case may be, was created; or in case the bankrupt had been an actual tenant in tail of such lands, and there shall, at the time of the disposition, be any issue inheritable to the estate tail of the bankrupt in such lands, and either no protector of the settlement by which the estate tail was created, or a protector of such settlement, who, in the manner required by this Act, shall consent to the disposition, or a protector of such settlement who shall not consent to the disposition; or in case the bankrupt had been tenant in tail entitled to a base fee in such lands, and there shall at the time of the disposition be any issue, who, if the base fee had not been created, would have been actual tenant in tail of such lands, and either no protector of the settlement by which the estate tail converted into a base fee was created, or a protector of such settlement, who, in the manner required by this Act, shall consent to the disposition.

Assignees to recover rents of the lands of a bankrupt, of which the Judge or Commissioner has power to make disposition, and to enforce covenants, as if entitled to the reversion.

This clause to apply to such lands only as the Judge or Commissioner may dispose of after the bankrupt's death.

XLVIII. And be it enacted, That the rents and profits of any lands, of which any Judge or Commissioner acting in the execution of any such commission as aforesaid hath power to make disposition under this Act, shall in the mean time, and until such disposition shall be made, or until it shall be ascertained that such disposition shall not be required for the benefit of the creditors of the person adjudged bankrupt under the commission, be received by the assignees of the estate of the bankrupt, for the benefit of his creditors; and the assignees may proceed by action of debt for the recovery of such rents and profits, or may distrain for the same upon the lands subject to the payment thereof, and, in case any action of trespass shall be brought for taking any such distress, may plead thereto the general issue, and give this Act or other special matter in evidence; and also, in case any such distress shall be replevied, shall have power to avow or make cognizance, generally, in such manner and form as any landlord may now do by any law or statute now in force, or hereafter to be made, for the more effectually recovering of rent in arrear; and such assignees, and their bailiffs, agents, and servants, shall also have all such and the same remedies, powers, privileges, and advantages of pleading, avowing, and making cognizance, and be entitled to the same costs and damages, and the same remedies for the recovery thereof, as landlords, their bailiffs, agents, and servants, are now or hereafter may be by law entitled to have when rent is in arrear; and such assignees shall also have the same power and authority of enforcing the observance of all covenants, conditions, and agreements, in respect of the lands of which such Judge or Commissioner as aforesaid hath the power of disposition under this Act, and in respect of the rents and profits thereof, and of entry into and upon the same lands, for the non-observance of any such covenant, condition and agreement, and of expelling and amoving therefrom the tenants or other occupiers thereof, and thereby determining and putting an end to the estate of the persons who shall not have observed such covenants, conditions and agreements, as the bankrupt would have had in case he had not been adjudged a bankrupt: Provided always, that this clause shall only apply to those lands which any Judge or Commissioner, acting in the execution of any such commission as aforesaid, may have power to dispose of under this Act after the bankrupt's decease.

The previous clauses, with certain varia-

XLIX. And be it enacted, That lands to be sold, whether freehold or leasehold, or of any other tenure, where the money arising from the sale thereof shall be subject

subject to be invested in the purchase of lands to be settled, so that any person, if the lands were purchased, would have an estate tail therein, and also money subject to be invested in the purchase of lands to be settled, so that any person, if the lands were purchased, would have an estate tail therein, shall, for all the purposes of this Act, be treated as the lands to be purchased, and be considered subject to the same estates as the lands to be purchased would, if purchased, have been actually subject to; and all the previous clauses in this Act, so far as circumstances will admit, shall, in the case of the lands to be sold as aforesaid being either freehold or leasehold, or of any other tenure, apply to such lands in the same manner as if the lands to be purchased with the money to arise from the sale thereof were directed to be freehold, and were actually purchased and settled; and shall in the case of money subject to be invested in the purchase of lands to be so settled as aforesaid, apply to such money in the same manner as if such money were directed to be laid out in the purchase of freehold lands, and such lands were actually purchased and settled; save and except that in every case, where under this clause a disposition shall be to be made of leasehold lands for years absolute or determinable, so circumstanced as aforesaid, or of money so circumstanced as aforesaid, such leasehold lands or money shall, as to the person in whose favour or for whose benefit the disposition is to be made, be treated as personal estate, and, except in case of bankruptcy, the assurance by which the disposition of such leasehold lands or money shall be effected shall be an assignment by deed, which shall have no operation under this Act unless registered in the Registry Office of the county or counties wherein the lands therein referred to shall lie, within six calendar months after the execution thereof; and in every case of bankruptcy the disposition of such leasehold lands or money shall be made by the Judge or Commissioner, and completed by registration, in the same manner as hereinbefore required in regard to other lands.

tions, to apply to lands of any tenure to be sold, where the purchase money is subject to be invested in the purchase of lands to be entailed, and where money is subject to be invested in like manner.

L. And be it enacted, That, after the first day of July, one thousand eight hundred and forty-six, it shall be lawful for every married woman, in every case, except that of being tenant in tail, for which provision is already made by this Act, by deed to release or extinguish any power which may be vested in, or limited or reserved to her in regard to any lands of any tenure, or any such money as aforesaid, or in regard to any estate in any lands of any tenure, or in any such money as aforesaid, as fully and effectually as she could do if she were a feme-sole; save and except that no such disposition, release, surrender, or extinguishment, shall be valid and effectual, unless the husband concur in the deed by which the same shall be effected, nor unless the deed be acknowledged by her as hereinafter directed.

A married woman, with her husband's concurrence, to release and extinguish powers, as a feme-sole.

LI. Provided always, and be it enacted, That the powers of disposition given to a married woman by this Act shall not interfere with any power which, independently of this Act, may be vested in or limited or reserved to her, so as to prevent her from exercising such power in any case, except so far as by any disposition made by her under this Act she may be prevented from so doing in consequence of such power having been suspended or extinguished by such disposition.

Powers of disposition given to a married woman by this Act not to interfere with any other powers.

LII. And be it enacted, That every deed to be executed by a married woman for any of the purposes of this Act, except such as may be executed by her in the character of protector, for the sole purpose of giving her consent to the disposition of

Every deed by a married woman, not executed by her as protector,

to be acknowledged by her as prescribed by laws of U. C.

of a tenant in tail, shall be executed, produced and acknowledged by her as her act and deed in manner and form prescribed by the laws of Upper Canada, enabling women to convey their real estate.

Court of Queen's Bench in the case of a husband being lunatic, &c., may dispense with his concurrence, except where the Vice Chancellor, or other persons intrusted with lunatics, or the Court of Chancery, shall be the protector of a settlement in lieu of the husband.

Proviso.

This Act to be in force only in U. C.

LIII. Provided always, and be it enacted, That, if a husband shall, in consequence of being a lunatic, idiot, or of unsound mind, and whether he shall have been found such by inquisition or not, or shall from any other cause be incapable of executing a deed, or if his residence shall not be known, or he shall be in prison, or shall be living apart from his wife, either by mutual consent or by sentence of divorce, or in consequence of his being transported beyond the seas, or from any other cause whatsoever, it shall be lawful for the Court of Queen's Bench of Upper Canada, by an order to be made in a summary way upon the application of the wife, and upon such evidence as to the said Court shall seem meet, to dispense with the concurrence of the husband in any case in which his concurrence is required by this Act or otherwise; and all acts, deeds, or surrenders to be done, executed, or made by the wife in pursuance of such order, in regard to lands of any tenure, or in regard to money subject to be invested in the purchase of lands, shall be done, executed, or made by her in the same manner as if she were a feme-sole, and, when done, executed, or made by her, shall (but without prejudice to the rights of the husband as then existing independently of this act) be as good and valid as they would have been if the husband had concurred: Provided always, that this clause shall not extend to the case of a married woman where under this Act the Vice Chancellor or other the person or persons intrusted with the care and commitment of the custody of the persons and estates of persons found lunatic, idiot and of unsound mind, or Her Majesty's Court of Chancery for Upper Canada, shall be the protector of a settlement in lieu of her husband.

LIV. And be it enacted, That this Act shall extend to and be in force only in that part of this Province formerly Upper Canada, except where it is otherwise expressly provided.

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A N N O N O N O

VICTORIÆ REGINÆ.

C A P. X I I.

An Act to remedy certain defects in the Registration of Titles in the County of Hastings in Upper Canada.

[18th May, 1846.]

WHEREAS Robert Charles Archibald McLean became Deputy Registrar of the county of Hastings, on the Nineteenth day of January, in year of our Lord, one thousand eight hundred and thirty-three, and continued in the said office until the Fourth day of October, one thousand eight hundred and forty-four; And whereas, during the time aforesaid, divers deeds, conveyances and wills, or the probates thereof, with memorials concerning lands in the said County, were duly brought to the said Robert C. A. McLean, to be registered in due form of law; And whereas the said Robert C. A. McLean, in numerous instances, neglected to enter the said memorials as by law required, but nevertheless indorsed a Certificate of Registry in due form on such deeds, conveyances, wills or probates; And whereas great injury and loss may arise from such neglect, and it is necessary to provide a remedy for the same: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be the duty of the Registrar of the said county, either by himself or his Deputy, to cause to be inserted, not less than twice in each month for the six months next ensuing the passing of this Act, in the Canada Gazette, and in all the newspapers published in the said county, a notice calling upon all persons who may have any deeds, conveyances, wills or probates, on which a Certificate of Registry has been endorsed, and signed by the said Robert C. A. McLean, as Deputy Registrar of the said county, to produce such deeds, conveyances, wills or probates, together with a memorial thereof in the form now required by law, (except that such memorial need not be signed or sealed by any person,) on which memorial shall be endorsed a true copy of the certificate on the deed, conveyance, will or probate, to which it relates, on or before the first day of January next, at the office of the Registrar of the said county, or they will not be entitled to the protection and benefit of this Act.

Preamble.
Recital.

Registrar of Hastings to insert a notice in public papers, calling on persons having documents certified by M. McLean as being registered, to produce the same to him and file memorials.

Registrar to compare memorial with deed, to indorse the number, and require proof by affidavit as to genuineness of signature and certificate, &c.

Registrar to make a new indorsement on the deed, &c.

Such deed to be thereafter taken to have been registered at the time mentioned in Mr. McLean's certificate.

Proviso saving rights of registered purchasers without notice of prior defectively registered conveyance.

Registrar to keep an Index Book to things done under this Act.

II. And be it enacted, That on every such production it shall be the duty of the Registrar, or his Deputy, to compare the memorial with the deed, conveyance, will or probate to which it relates, and to indorse on the same in figures the number of the memorial mentioned in the certificate of the said Robert C. A. McLean, indorsed on such deed, conveyance, will or probate, and also to require proof by oath or affirmation, (which oath or affirmation the said Registrar and his Deputy are hereby severally authorized to administer,) that the person taking the same is acquainted with the signature of the said Robert C. A. McLean, and verily believes the signature to the Certificate of Registry indorsed as aforesaid, to be of the proper handwriting of the said Robert C. A. McLean, and that the copy of the certificate indorsed on such memorial is a true copy of the original; and the said Registrar or his Deputy shall thereupon indorse on every such deed, conveyance, will or probate, the words "examined and re-entered," and the date of his making such indorsement, and shall sign the same.

III. And be it enacted, That every such deed, conveyance, will or probate, brought to the Register Office of the said County, and indorsed as examined and re-entered, shall thenceforth be deemed, held and taken in all courts and places, and for all purposes to have been duly registered on the day and at the hour mentioned in the certificate of the said Robert C. A. McLean indorsed thereon: Provided always, that in all cases of dispute as to the priority of time at which any memorial was produced to the said Robert C. A. McLean for the registry thereof by reason of the same day, month, year, and hour, being mentioned in two or more certificates signed by the said Robert C. A. McLean, the deed or conveyance earliest in date, shall be deemed and taken for all purposes to have been first registered: Provided always, that nothing in this Act contained shall divest or be construed to divest from any person or persons, any estate or interest in lands acquired by such person or persons, without notice of a prior defectively registered conveyance thereof, which estate or interest in lands is now vested in such person or persons under or by virtue of the provisions of an Act of the Legislature of that part of the Province of Canada, heretofore known as Upper Canada, passed in the thirty-fifth year of the Reign of His late Majesty King George the Third, intituled, *An Act for the public Registering of Deeds, Conveyances, Wills, and other Incumbrances which shall be made or may affect any lands, tenements, or hereditaments within this Province*, but that such estate and interest in lands so acquired without notice of such prior defectively registered conveyance shall remain vested as if this Act had not been passed.

IV. And be it enacted, That it shall be the duty of the said Registrar or his Deputy, to keep an Index Book for every town or township in the County, for memorials to be brought to his office in pursuance of this Act, and upon the receipt of any such memorial, forthwith to enter in the Index Book of the proper town or township the piece or parcel of land, lot or part of lot, concession or other description mentioned in such memorial as being conveyed, assured, devised, or in any wise affected in or by the deed, conveyance, will, or probate, to which such memorial relates, with the names of the parties to such deed or conveyance, and the deviser and devisee named in any will, and the number of such memorial and the date of the Certificate of Registry by the said Robert C. A. McLean, and the date of the certificate of examination and re-entry thereof, indorsed by the Registrar

Registrar or his Deputy, in such manner and so arranged as to afford an easy and convenient reference to all parties desiring to search respecting the same.

V. And be it enacted, That all persons making search respecting any memorial brought to the Registry Office pursuant to this Act, shall be entitled to see and examine the memorial as well as the entry in the Index Book, relating thereto.

Persons making search may see memorial entry.

VI. And be it enacted, That it shall not be lawful for the said Registrar or his Deputy to receive and index any memorial under and by virtue of this Act, or to indorse any deed, conveyance, will, or probate, to which such memorial relates in manner hereinbefore authorized, after the first day of January next.

Limitation.

VII. Provided always, and be it enacted, That nothing in this Act contained shall extend or be construed to extend, to avoid, diminish, or invalidate any Registry duly made by the said Robert C. A. McLean, or the Registry of any deed, conveyance, will, or probate, which, having been irregularly registered by the said Robert C. A. McLean, shall have afterwards been duly registered according to law.

Act not to affect registration duly effected.

VIII. And be it enacted, That this Act shall extend to authorize the re-entry of Certificates of Mortgages being paid, and to make the same effectual and binding on the parties thereto, upon proof of the handwriting of the said Robert C. A. McLean to any entry, note, memorandum, or certificate shewing such certificate to have been brought to him for the due entry thereof.

Act to extend to certificates of claims being paid off.

IX. And be it enacted, That the following fees and no other or greater shall be payable to the Registrar or his Deputy under this Act: For receiving and marking every memorial, administering the oath or affirmation required and certifying the deed, conveyance, will, or probate, to which such memorial relates, and endorsing the same, two shillings and six pence, payable by the party producing such memorial at the time he shall produce the same; every search under this Act, payable by the party searching, one shilling; preparing and transmitting every notice for publication in the Gazette and newspapers, each notice two shillings and six pence, to be paid, together with the sum disbursed by the Registrar or his Deputy for the charge of publication, by the Treasurer of the District, and to be charged by and allowed to him in his accounts with the District; for each Index Book the sum actually disbursed to be paid and charged by and allowed to the Treasurer of the said District in manner aforesaid.

Fees payable under this Act. Memorials, affidavits and certificates.

Searches.

Public notices.

Cost of advertising.

Index Books.

X. And be it enacted, That every wilful neglect or breach of any duty required to be performed under this Act by the said Registrar or his Deputy shall subject the Registrar or his Deputy respectively to the like prosecution, suit, penalty, forfeiture and punishment as if the offence were committed against any of the provisions of the Act of the Parliament of Upper Canada, passed in the thirty-fifth year of the Reign of His late Majesty King George the Third, intituled, *An Act for the public Registering of Deeds, Conveyances, Wills, and other Incumbrances, which shall be made or may affect any lands, tenements, or hereditaments within this Province*; or of any Act passed or to be passed during the present Session, repealing the said Act, and making other provisions instead thereof.

Contravention of this Act to be punishable in the same manner as contravention of 35 Geo. 4. c. 5.

Or of any Act of this Session substituted for it.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. XIII.

An Act for the better Administration of Justice in the General Sessions of the Peace for Gaspé, and for preventing charges upon the Treasury of the Province for unnecessarily summoning Jurors thereto.

[18th May, 1846.]

WHEREAS it is expedient to restrain, in so far as it may consist with the due administration of justice, the expenses incurred in summoning Jurors to the several Courts of General Sessions of the Peace in the District of Gaspé, and to exempt the inhabitants, unless in cases of necessity, or where there may be business of urgency requiring their attendance, from the loss of time, inconvenience and trouble of attending as Jurors thereat: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That no precept shall issue for summoning Grand or Petit Jurors to any General Sessions of the Peace in the District of Gaspé, nor shall any such General Sessions be held unless, in addition to the signatures of some three Justices of the Peace to such precept, the same is also signed by the District Judge residing in the County where the Sessions are to be held; nor shall the Sheriff execute, nor cause to be executed, or be held to obey any precept to him addressed by any three or more Justices, unless as a voucher for the urgency or expediency of summoning Jurors to attend such General Sessions, the signature of such District Judge appear upon the precept to him addressed; and whenever any precept so signed shall be addressed to the said Sheriff, it shall, as provided in the like case by the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to establish the District of Gaspé, and to provide for the due administration of Justice therein*, be in like manner the duty of the Sheriff of the District of Gaspé to cause such precept to be executed with all possible despatch, and at as little expense as possible to the Province for mileage or other incidental charges.

Preamble.

Precept for summoning Jurors must be countersigned by the District Judge as a voucher for the necessity of its issuing.

As little expense as possible to be incurred.
Act 7 Vict. c. 17. cited.

District
Judges to
preside.

II. And be it enacted, That it shall be the duty of the District Judges, respectively, in the said District of Gaspé, to preside at the several General Sessions of the Peace in their respective Counties, when it may not interfere with their other judicial duties in the Circuit Courts or Court of Queen's Bench therein, and in case of his illness, or unavoidable absence of such Judge, the Senior Justice of the Peace present shall preside.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. XIV.

An Act to amend the Act for the encouragement of Agriculture by the establishment of Agricultural Societies in Lower Canada.

[18th May, 1846.]

WHEREAS doubts have arisen as to the legality of the formation of certain County Agricultural Societies in Lower Canada, the first Election of the Members and Officers whereof was held after the first day of June, in the year of our Lord, one thousand eight hundred and forty-five, and it is expedient to remove such doubts: Be it therefore enacted and declared by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby declared and enacted by the authority of the same, That any Agricultural Society established in any County in Lower Canada before the passing of this Act, and with regard to which the other provisions of the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts therein mentioned, and better to encourage Agriculture in Lower Canada by the establishment of Agricultural Societies therein*, have been complied with, was and shall be deemed to be legally established, and shall be entitled to all the benefits and privileges conferred by the said Act, although the first election of the Members and Officers of such Society may not have been held in the month of June, in the year of our Lord, one thousand eight hundred and forty-five; and that any such Society may be established after the passing of this Act, and shall be entitled to all the benefits and privileges conferred by the Act herein above cited, provided the first election of the Officers and Members of such Society be held during the month of June, in the present year, or in the month of February in any future year, and all the other provisions of the said Act be complied with.

Preamble.

Agricultural Societies established under 8 Vict. c. 53, declared legally established, although the first election was not held in June, 1846.

Societies to be formed hereafter.

II. And be it enacted, That so much of the fifteenth section, or of any other part of the said Act, as limits the sum to be annually appropriated by any Agricultural Society for the importation of animals, grain or seeds of improved kinds, shall be and so much of the said Act is hereby repealed.

Part of sect. 15, of the said Act repealed.



A N N O N O N O

VICTORIÆ REGINÆ.

C A P . X V .

An Act relating to the Magdalen Islands, in the Gulf of St. Lawrence, and to enable the Inhabitant Householders therein to establish a Municipal Council in the said Islands, and to extend the like advantages to certain localities in the County of Saguenay, and to those parts of the Counties of Rimouski and Kamouraska known as the Madawaska Territory.

[18th May, 1846.]

WHEREAS it is expedient to extend the benefits intended by an Act of the last Session of the present Parliament, intituled, *An Act to repeal certain Ordinances therein mentioned, and to make better provision for the establishment of Local and Municipal Authorities in Lower Canada*, to the inhabitant householders in the Magdalen Islands, in the Gulf of St. Lawrence, comprising about three hundred families, making in all a population exceeding one thousand seven hundred individuals: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That on the first Monday in July next, and in case of default or failure on that day from any unforeseen cause, then on the succeeding Monday, or any other day in the said month, or in the month of August or September following, which shall be fixed by any ten householders *tenant feu et lieu* in the said Islands, and of which public notice shall be duly given by them, in such manner as they shall deem the most expedient, the inhabitant householders in the said Magdalen Islands, *tenant feu et lieu*, and having been such during the twelve months next preceding the above mentioned month of July of this present year, and being respectively of the male sex of the full age of twenty one years, and subjects of Her Majesty by birth or naturalization, may, in the manner prescribed in and in conformity to the fifth, sixth and seventh sections of the above mentioned Act, passed in the last Session of the present Provincial Parliament, and intituled, *An Act to repeal certain Ordinances therein mentioned, and to make better provision for the establishment of Local and Municipal Authorities in Lower Canada*, hold a meeting at Amherst Harbour, in the said Islands, for the purpose

Preamble.

Householders having a certain qualification may elect Municipal Councillors for the Magdalen Islands.

Certain section of 8 Vict. c. 40. cited.

Where the meeting is to be held, and qualifications of the Councillors.

In other years Councillors to be elected in like manner.

Act not to be construed to exclude freeholders from voting.

Act limited to present occupants.

Lists of Voters to be made.

Lists to be laid before Parliament.

Only one person to vote on each lot.

purpose of electing, and may accordingly elect from among themselves, seven persons qualified to vote at such election, to be Councillors, and to compose the Municipal Council for the said Magdalen Islands, the Councillors so to be chosen not being persons of the description mentioned and excepted in and by the said tenth section of the aforesaid Act; and the Councillors so elected shall, pursuant hereunto, constitute the Municipal Council of the said Magdalen Islands to all intents and purposes of the said Act, and with the like powers as are thereby given, but subject always to all the provisions thereof as if duly elected pursuant thereto, and be succeeded and replaced by others having the like qualification, being inhabitant householders in the said Islands, *tenant feu et lieu*, at the time of election and during the previous year, as hereinabove provided, with respect to those who shall be chosen to form the first Municipal Council.

II. Provided always, and be it enacted, That nothing herein contained shall be construed to debar or prevent any such inhabitant householder or householders being a freeholder or freeholders, now or at any time hereafter, in any of the said Islands and qualified according to this Act to vote at any election of a Councillor, from the exercise of his franchise, or from voting thereat if he shall see fit, or from being elected thereat; and provided also, that the privilege hereby given to the present inhabitant householders in the said Islands, shall, in all time to come, be limited to such freeholders as aforesaid, and to the rightful occupants of such ground or lands only as are actually occupied, built upon and *bonâ fide* inhabited now or which shall be so at the time when this Act shall first go into operation, and that such privileges shall not be hereafter extended to mere occupants of any other land not now or then actually occupied and inhabited; and that in order to prevent misunderstandings and disputes in this behalf, it shall be the duty of the Mayor of the Municipality of the said Magdalen Islands within the twelve months next after the election of the Municipal Council of the said Magdalen Islands to cause a list of names of the several inhabitant householders not being freeholders but being otherwise qualified to vote under this Act actually domiciliated, and *tenant feu et lieu*, in the said Islands, specifying the locality of their respective dwellings or residences, and the extent of ground or emplacement as nearly as it can be ascertained occupied by each, to be made out for future reference thereunto in case of need, and which he shall verify and sign in duplicate as a true and authentic list of the actual and *bonâ fide* occupants of ground in the said Islands, one of which lists he shall transmit without delay to the Provincial Secretary, by whom copies thereof shall be laid before the two Houses of Parliament, if then in Session, or if not in session then at the next Session thereafter, preserving the other among the records and remembrances of the Municipal Council.

III. And be it enacted, That the benefits conferred by this Act upon the inhabitant householders in the Magdalen Islands, shall, also under the like terms, restrictions and conditions as hereinabove mentioned, be extended to and conferred upon the inhabitant householders similarly situated in any and all such localities on the River Saguenay, in the County of Saguenay,—and in like manner to those on Rivers Madawaska and St. John, known as the Madawaska Territory, making part of the Counties of Rimouski and Kamouraska, in this Province, as the Governor or person administering the Government of the Province for the time being shall, in accordance with the above recited Act of the eighth year of Her Majesty's Reign,

or

or any other Act that may be passed during the present Session in amendment or instead thereof, see fit to designate as a Municipality or Municipalities in any part or parts aforesaid of either of those Counties or places; Provided always, that no person shall be elected as a Councillor, or act as such under the provisions of this Act, unless he shall be a qualified voter for the Municipality for which he is elected and possessed of real property therein, to the value of fifty pounds, currency, over and above every charge or incumbrance thereon.

IV. And be it enacted, That all and every the provisions of a certain other Act passed in the eighth year of Her Majesty's Reign, intituled, *An Act to make better provision for Elementary Instruction in Lower Canada*, shall, in so far as the same are applicable to, and practicable in such Municipalities, or any of them, to be established in virtue hereof, be extended thereto, and the inhabitant householders therein, respectively, *tenant feu et lieu*, and entitled to vote in virtue hereof, for the election of any Municipal Councillor therein, in virtue of this Act, be accordingly affected, bound and benefited by the said Act, severally and collectively, as if the said Act had special reference to them; any thing to the contrary therein notwithstanding.

Rights not specially mentioned to be saved.

V. And be it enacted, That in like manner all and every the provisions of a certain Act passed in the seventh year of Her Majesty's Reign, intituled, *An Act to provide for the Summary Trial of Small Causes in Lower Canada*, shall, in so far as the same are applicable to and practicable in the Municipalities established in virtue hereof, be extended to the same, respectively, on the petition of at least one hundred inhabitant householders *tenant feu et lieu* therein, the petition being always certified as in and by the first section of the said Act it is provided and required, all other exigencies or requirements of the said Act, with respect to the appointment of a Commissioner or Commissioners under the said Act, for the summary trial of small causes in Lower Canada, being also observed.

The provisions of the Act for Summary Trial of Small Causes in L. C. to be extended thereto on petition of inhabitants.

VI. Provided always, and be it enacted, That no more than one person shall have the right of voting at any election of a Councillor, by reason of the occupancy of any one emplacement or lot of ground, so as aforesaid occupied, built upon, and *bonâ fide* inhabited, nor shall any person occupying two or more such emplacements or lots of ground, have by reason thereof, a right to more than one vote at any such election.

Proviso. Persons having two or more emplacements not to have more than one vote.

VII. And be it enacted, That nothing herein contained shall alter, prejudice or in any wise affect, nor be construed so to do, the right or rights of Her Majesty, Her Heirs or Successors, or of any body politic or corporate, person or persons whomsoever, having or pretending to have any right, claim or claims, or pretensions in or to the said Magdalen Islands, or to any of them, or to any part or parts thereof.

Reservation of Her Majesty's rights.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. XVI.

An Act to increase the Salary of the Supervisor of Cullers.

[18th May, 1846.]

WHEREAS it is expedient to amend the Act passed in the last session of the present Parliament, and intituled, *An Act to regulate the Culling and Measurement of Timber, Masts, Spars, Deals, Staves and other articles of a like nature, and to repeal a certain Act therein mentioned*, in so far as the said Act relates to the salary of the Supervisor of Cullers appointed under the authority of the said Act: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so much of the twenty-first section of the said Act as limits the sum to be received and taken by the Supervisor of Cullers, as his annual salary, out of the funds coming into his hands, to four hundred pounds, currency, shall be repealed, and that such repeal shall be deemed to have effect from and after the first day of January, one thousand eight hundred and forty-six, and that, reckoning from and after the said day, it shall be lawful for the said Supervisor of Cullers to take out of the said funds the sum of five hundred pounds, currency, annually, as his salary, exclusive of all the expenses of his office.

Preamble.
8 Vict. c. 49.
cited.

Salary of Supervisor of Cullers increased from £400 to £500.

£500.

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A N N O N O N O

VICTORIÆ REGINÆ.

CAP. XVII.

An Act to provide for vesting in Trustees the Sites of Schools in that part of this Province called Upper Canada.

[18th May, 1846.]

WHEREAS difficulties have been experienced by persons interested in Schools in that part of this Province called Upper Canada, in securing the titles to real property, for the use of such Schools, for want of a corporate capacity to take and hold the same in perpetual succession; and whereas it is expedient and proper to provide relief in such cases: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for any number of persons, residing in that part of this Province called Upper Canada, who may be interested in any School established or to be established in any Town or Township therein, whether as Parents of Children frequenting such Schools, or as contributors to the same, or both, when, and as often as they may have occasion or be desirous to take a conveyance of real property for the use of such Schools, to elect from among themselves, and to appoint any number of Trustees, not exceeding seven nor less than five, to whom and to whose successors, to be appointed in such manner as shall be specified in the Deed of Conveyance, the real property requisite for such School may be conveyed; and such Trustees, and their successors in perpetual succession, by the name expressed in such Deed, shall be capable of taking, holding, and possessing such real property, and of commencing and maintaining any action or actions at law or in equity for the protection thereof, and of their right thereto: Provided always, that there shall not be held in trust as aforesaid more than ten acres of land at any one time for any one School: Provided also, that nothing in this Act contained shall be construed to extend to common Schools

Preamble.

Persons interested in any School in Upper Canada, may name Trustees to take conveyance of Site.

Such Trustees to have certain corporate power.

Provide.

II. And be it enacted, That such Trustees shall, within twelve calendar months after the execution of such Deed, cause the same to be registered in the Office of the Register of the County in which the land lies.

Deed to be registered.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,

Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. XVIII.

An Act to provide for the Recovery of the Rates or Taxes intended to be imposed by certain By-laws of the District Council of the District of Huron.

[18th May, 1846.]

WHEREAS the District Council of the District of Huron, intending to carry into effect the enactments of the Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to provide for the better internal government of that part of this Province which formerly constituted the Province of Upper Canada, by the establishment of Local and Municipal Authorities therein*, have, since the passing of the said Act, passed divers By-laws imposing rates or taxes on lands in the said District, and the rates or taxes so imposed have been paid by the great majority of the inhabitants and land-holders therein; And whereas it appears that the total sum or sums to be raised under such By-laws and the purposes to which they were to be applied, were not first determined by the said District Council, and the sums afterwards apportioned and rated on the lands in the District, but a certain rate or tax of so much per acre was at once imposed on them, and the said By-laws may therefore be deemed not to have been strictly in accordance with the letter of the said Act, and certain parties have on that ground refused payment of the rates or taxes thereby imposed; And whereas it appears that the rates or taxes intended to be imposed by the said By-laws did not exceed the amount which the said District Council were legally authorized to impose on lands, and therefore that the said By-laws, if defective in point of form were not inconsistent with the intent and spirit of the Act above cited, and their enforcement can do no injustice to any party, while it will be an Act of justice to those inhabitants of the District who have paid the taxes thereby imposed: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all By-laws heretofore passed by the District Council of the District of Huron and not disallowed, by which any rate or tax not exceeding one penny half-penny, currency, per acre, was intended to be imposed on lands in the said District, shall be and shall

Preamble.
Recital.

4 & 5 Vict. c.
10, cited.

Certain By-laws imposing taxes declared valid though not strictly according to the letter of the law.

Construction
of such By-
laws.

Proviso.

Proviso.

shall be deemed to have been valid and in force according to the intent thereof, and the rates and taxes thereby intended to be imposed shall be paid to and may be recovered by the District Treasurer of the said District, in the same manner and subject to the same provisions, as if in such By-laws, respectively, the sum to be raised and the purpose to which it should be applied had been prescribed, and such sum had afterwards been apportioned on all lands in the said District, and the rate had under such apportionment amounted to the rate or tax per acre intended to be imposed by such By-laws, respectively; and the rate or tax imposed by any such By-law shall be paid and recoverable accordingly, unless there be something to the contrary in the By-law, or it shall have been subsequently repealed, altered or amended by any subsequent By-law, or unless any arrangement or compromise shall have been made, by By-law or otherwise, between the said District Council, and any Body Corporate, or other person or party for the satisfaction of the taxes imposed by any previous By-law, in which case the sum paid under such arrangement or compromise, shall be taken and held to be in full satisfaction of the sum or sums accruing due under any such previous By-law: Provided always, that no such rate or tax shall be payable under any such By-law for any period before the first day of January, one thousand eight hundred and forty-two; And provided also, that nothing herein contained shall apply to any By-law to be made after the passing of this Act, or shall authorize the collection of rates or taxes for any period after that time, under any By-law under which they could not be collected without this Act.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. XIX.

An Act to amend the Act therein mentioned, relating to the appropriation of Monies derived from the sale of School Lands in Upper Canada.

[18th May, 1846.]

WHEREAS by the sixth section of the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to make temporary provision for the appropriation of the funds derived from the sale of School Lands in that part of the Province formerly Upper Canada, and for other purposes*, it is, among other things, enacted, That, out of the monies arising from the sale of School Lands, a certain annual allowance may be made for the support of certain Schools therein mentioned, at which not less than fifty scholars shall be educated; And whereas it is expedient to make a smaller number of scholars sufficient to enable such Schools to receive the said allowance: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That, subject to the other provisions and requirements of the said Act, it shall be lawful for the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, by and with the advice and consent of the Executive Council thereof, to authorize the payment of the annual allowance in the said section of the said Act mentioned, to any Board of Trustees, for the use and support of two other Schools than the one in the Town where the Court-house is situate, in any Town, Township or Village within any District in that part of this Province which formerly constituted the Province of Upper Canada, in which the inhabitants shall provide a suitable School House, at which not less than thirty scholars shall be educated; any thing in the said section requiring that a greater number than thirty be so educated, to the contrary notwithstanding.

Preamble.
Sixth Section
of Prov. Stat.
4 & 5 Vict. c.
19, cited.

Thirty scholars instead of fifty to be sufficient to warrant the payment of the allowance mentioned in said section of said Act.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. XX.

An Act for the better establishment and maintenance of Common Schools in Upper Canada.

[23rd May, 1846.]

WHEREAS it is expedient to make provision for the better establishment and maintenance of Common Schools in that part of this Province formerly Upper Canada, and also for the establishment of a Normal and Model Schools therein: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Governor may, from time to time, by Letters Patent, under the Great Seal of the Province, appoint a fit and proper person to be Superintendent of Schools in Upper Canada, and to hold his office during pleasure; that the said Superintendent shall receive a salary not to exceed five hundred pounds, currency, per annum, and to bear such proportion to that sum as the amount of public monies paid towards the support of Common Schools in that part of this Province called Upper Canada, bears to that paid towards the support of Common Schools in that part of this Province called Lower Canada, and shall be allowed one hundred and seventy-five pounds, currency, per annum, for a Clerk, and the contingent expenses of his office, to be by him accounted for, as provided in respect of other public Officers; and that the said Superintendent shall be subject to all such lawful orders and directions, in the exercise of his duties, as shall from time to time be given by the Governor of this Province.

Preamble.

Chief Superintendent of Common Schools appointed.
His salary.

Allowance for a Clerk and contingent expenses.

II. And be it enacted, That it shall be the duty of the Superintendent of Schools:

Duty of Superintendent.

First. After deducting certain sums, as hereinafter provided, to apportion, on or before the fifteenth day of April of each year, all monies appropriated by the Legislature for Common Schools in Upper Canada for such year, according to the ratio of population in each District, Township, Town or City, as compared with the population of Upper Canada, or if he shall think it expedient, in case of a defective Census, according to the ratio of children residing in each, over the age of five and under the age of sixteen years, as stated in the last Annual Reports of the District Superintendents.

To apportion monies arising from Common School Fund, and in what ratio.

Secondly.

To notify the apportionment to certain Officers.

Secondly. To certify such apportionment made by him to the Inspector General, so far as it relates to the several Districts in Upper Canada, also to give immediate notice to the Superintendent of Schools in each District, stating the amount of monies apportioned to his District, and to each Township, Town and City therein.

To prepare forms and regulations, and furnish copies thereof and of this Act to District Superintendents.

Thirdly. To prepare suitable forms and regulations for making all Reports, and conducting all necessary proceedings under this Act, and to cause the same, with such instructions as he shall deem necessary and proper for the better organization and government of Common Schools, to be transmitted to the Officers required to execute the provisions of this Act, copies of which forms, regulations and instructions, as also copies of this Act, shall be furnished by him to the several District Superintendents, for the use of School sections, as occasion may require.

Other duties. Due application of monies.

Fourthly. To see that all monies apportioned by him be applied to the purposes for which they were granted.

Complaints submitted to him.

Fifthly. To decide upon all matters and complaints which may be submitted to him by parties interested, under the operation of this Act.

Selection of Books.

Sixthly. To discourage the use of unsuitable and improper books in the Schools or School Libraries, and to use all lawful means to provide for and recommend the use of uniform and approved text books in all the Schools.

Normal School.

Seventhly. To take the general superintendence of the Normal School, as soon as one shall have been established.

Plans of School houses.

Eighthly. To prepare, as soon as practicable, and recommend the adoption of suitable plans of School Houses with the proper furniture and appendages.

School Libraries.

Ninthly. To use his best endeavours to promote the establishment of School Libraries for general reading in the several Districts and Townships of Upper Canada, and to furnish every information necessary, as far as he shall be able, as to the regulations of such Institutions and the books most suitable for them.

Diffusion of information.

Tenthly. To employ all lawful means in his power to collect and diffuse information on the subject of education generally, among the people of Upper Canada.

Yearly reports

Eleventhly. To submit annually to the Governor of this Province on or before the first day of August in each year, a report of the actual state of the Normal, Model and Common Schools throughout Upper Canada, shewing the amount of monies expended on such Schools, and from what sources the same have been derived, with plans for their improvement, and such other statements and suggestions relating to education generally, as the said Superintendent may deem useful and expedient, in order that the same may be laid before the Legislature at the meeting thereof next following.

Governor may appoint Board of Education.

III. And be it enacted, That the Governor shall have authority to appoint not more than seven persons, (of whom the Superintendent of Schools shall be one, to be a Board of Education,) who shall hold their situation during pleasure, and shall

shall be subject to all lawful orders and directions, in the exercise of their duties, which shall from time to time be issued by the Governor, and whose duty it shall be, in conjunction with the Superintendent of Schools—

First. To adopt all needful measures for the establishment and furnishing of a Normal School for Upper Canada—to make from time to time all needful rules and regulations for the management and good government of such School—to prescribe the conditions on which pupils shall be received and instructed therein—to select the location of such School, the terms and conditions on which buildings therefor shall be procured—to determine the number and compensation of Teachers and others who may be employed therein—and to do all other lawful things which they may deem expedient to promote the objects and interests of such School.

Duties of the Board.
Making regulations, &c.

Secondly. To examine and recommend or disapprove of all books, plans or forms which may be submitted to them with a view to their use in Schools; and no portion of the Government Grant shall be given in aid of any School in which any book is used which has been disapproved of by the Board, and of which disapproval public notice shall have been given.

Examination of Books.

Thirdly. To aid the Superintendent of Schools with their counsel and advice on all questions, and on all measures which he may submit to them for the promotion of the interests of Schools, and for the diffusion of useful knowledge among the people of Upper Canada.

Advising with Superintendent.

IV. And be it enacted, That the meetings of the said Board shall be held at some place which shall be provided by the Superintendent of Schools; and that the first meeting of the Board shall be called by the Superintendent of Schools; that the said Board shall appoint a Chairman, and the times of its meetings; that a special meeting may be called at any time by the Superintendent of Schools, by giving due notice to the other members; that at all meetings of the Board duly called, three Members shall form a *quorum* for the transaction of business; that the Clerk in the Education Office shall be the Recording Clerk to the Board, and shall enter all its proceedings in a book to be kept for that purpose; and that the expenses attending the proceedings of the Board shall be accounted for as part of the contingent expenses of the Education Office.

Meetings of Board when and where to be held.

Three members to form a quorum.

V. And be it enacted, That, as soon as practicable, there shall be established a *Normal School*, containing one or more *Elementary Model Schools* for the instruction and practice of Teachers of Common Schools in the science of education and art of teaching, according to such regulations as are hereinbefore provided for, and which shall be approved by the Governor in Council, and that a sum not exceeding one thousand five hundred pounds, be expended by the Board of Education, in procuring and furnishing suitable buildings for the said Normal School; that a sum not exceeding one thousand five hundred pounds per annum be allowed for the salaries of Teachers and all other contingent expenses of the said School; and that detailed accounts of the expenditure of all monies for the establishment and support of the said School, shall be annually transmitted to the Governor, through the Superintendent of Schools, to be laid before the Legislature.

A Normal School to be established.

Salary of Teachers in the said School.

Council of each District may appoint persons to be District Superintendents.
Proviso.

VI. And be it enacted, That the Council of each District shall have authority to appoint a proper person to be District Superintendent of Common Schools, who shall hold his office during pleasure: Provided always, that in case the Council of any District shall neglect or refuse to recommend the appointment of a District Superintendent, at any meeting of such Council during the present year, or at their first meeting after the occurrence of any vacancy, then it shall be lawful for the Governor to make such appointment.

Salary of District Superintendent to be provided for by by-law.

VII. And be it enacted, That it shall be lawful for the Council of each District, by By-law, to provide for the salary of the District Superintendent.

District Council to cause to be levied, for School purposes, a sum of money in each District at least equal to amount of public money apportioned to such District.

VIII. And be it enacted, That the Council of each District, on receiving from the District Superintendent of Common Schools, a certified copy of the apportionment of the Legislative grant in aid of Common Schools for their District for the current year, shall, without delay, cause to be levied such sum of money, for Common School purposes, as they shall see fit, and within the limit of their powers of imposing taxes, and at least equal (clear of all charges of collection) to the amount of public monies apportioned to such District, such sum, within the limit aforesaid, to be increased at the discretion of the said Council; and the sum so to be raised shall be placed on the proper Collector's Rolls, and shall be collected by him in like manner as any other tax for such District, but shall be paid over by him to the District Superintendent of Common Schools, within the period fixed by law for the payment of rates collected to the Treasurer in each year.

District Council to divide Townships into School sections.

IX. And be it enacted, That the Council of each District shall cause each Township, or parts of adjoining Townships, Town or City in such District, to be divided into a convenient number of sections, and parts of sections to be numbered and described; and which may be altered at the discretion of the Council; and a copy of the descriptions and numbers of such sections and parts of sections shall be forthwith furnished by the Clerk of such Council to the Superintendent of Common Schools for the District.

And may levy sums of money for purchasing School sites, &c.

X. And be it enacted, That the District Council in each District shall have authority within the limit aforesaid to cause to be levied any sum or sums of money which may be required for the purchasing of School sites, and the erection and furnishing of School Houses, the procuring of residences for Teachers and for Common School purposes generally, in such District, and upon the inhabitants of the said District generally, or on those of any particular Township, School section, or other locality, as the case may require; Provided always, that this shall not be construed to prevent the inhabitants of any School section or Township from adopting any voluntary means they may deem expedient to purchase, erect, furnish, or repair any School House or residence for the Teacher; Provided always, that the title to any Common School House, and the land and premises appurtenant thereto now vested in Trustees, or other persons, to and for the use of any Common School or hereafter to be purchased, acquired and conveyed for such use, shall be vested in the District Council of the District in which such School Houses and lands are situate in trust for the use of such School, respectively.

Proviso.

XI. And be it enacted, That where, under or by virtue of any Act of the Legislature of this Province, for the establishment or maintenance of Common Schools, any School House shall have been erected which, from any cause whatever, shall not have been paid for to the person or persons entitled to the same, and for which a rate shall not have been assessed upon the School section, (or where such rate shall have been imposed but has not been collected) in which the same was so built, it shall and may be lawful to and for the District Council of the District in which the same is situate, to levy by assessment, a rate upon the inhabitants of such School section sufficient in amount to pay the same.

District Council to levy amount to pay for any School house not yet paid for.

XII. And be it enacted, That each District Superintendent, appointed as hereinbefore provided, shall, before he enters upon the duties of his office, enter into bonds with two or more sufficient sureties, to such an amount and in such form as may be required by the Council of the District, for the faithful performance of the duties of his office.

District Superintendent to give security.

XIII. And be it enacted, That it shall be the duty of each District Superintendent of Common Schools :

Duties of District Superintendent.

First. To transmit to the Clerk of the District Council, to be laid before the Council, a certified copy of the apportionment of School money to be distributed in the District, as soon as the notice of the said apportionment shall have been received from the Superintendent of Schools.

To transmit to Clerk of District Council copy of apportionment of money to be distributed in the District.

Secondly. As soon as he shall receive from the District Clerk a notification of the amount of money required by the District Council to be raised by tax, to add that amount to the Government apportionment, (which two sums added together shall constitute the District School Fund for the support of Common Schools in such District,) and to apportion the said fund among the several School sections entitled to receive the same, according to the ratio of children over five and under sixteen years of age in such sections respectively, as compared with the whole number of children of the same ages in each Township, Town or City, and in the whole District, and to notify the same to the Trustees of each School section in the District, so far as they are respectively concerned.

To apportion School funds among the School sections according to ratio of children over five and under sixteen.

Thirdly. To pay to any Teacher or his agent, or any order or orders of the Trustees for the time being, or the majority of them as hereinafter provided, any sum or sums of money which have been apportioned to the School or School section in which such Teacher may have taught ; the payment of which order shall nevertheless be subject to the following conditions :

To pay to Teacher sum apportioned to his School section.

He shall not pay any parts of the apportionment to any School section from which no sufficient Annual Report shall have been received for the year ending the last day of December preceding the apportionment.

Condition.

Nor shall he pay any part of the apportionment to any School section, or part of a section, unless it shall appear by the said Reports that a School has been kept therein for at least six months during the year ending at the date of such Report, by a qualified Teacher, and that all monies received from the School Fund during the

Condition.

the year ending at the date of such Report, have been faithfully applied in paying the compensation of such Teacher ; Provided likewise, that the foregoing condition shall not be exacted of a School section in which a School has been commenced during the preceding year,—such newly formed section being entitled to share in the School Fund, provided a School shall have been kept therein three months of the year preceding by a qualified Teacher, and a sufficient Report furnished.

To visit Model
and Common
Schools.

Fourthly. To visit all the Model and Common Schools in his District, at least once a year, and oftener if it shall be deemed necessary, in order to examine into the state and condition of the Schools, both as respects the progress of the scholars in learning, and the good order of the Schools, and the character and condition of the buildings, and to give such advice both to Teachers and Trustees, in regard to the interests and management of the Schools, as he may judge proper.

To examine.
Candidates for
the office of
Teacher.

Fifthly, To examine all persons offering themselves as Candidates for teaching in Common Schools, with respect to their moral character, learning and ability ; and if he be satisfied of the Candidate's qualifications in these respects, he shall give him a special Certificate, authorizing him to teach only one year in the School specified, or a general Certificate authorizing the applicant to teach in any Common School in the District until such Certificate is revoked ; Provided always, that every such Teacher shall be subject to re-examination whenever it shall be deemed expedient, by the District Superintendent of Schools : Provided also, that no such Certificate of qualification shall be granted to any person as a Teacher who shall not, at the time of granting it, be a natural born or naturalized subject of Her Majesty, Her Heirs or Successors, without a special license in the case of a Teacher of any language other than English, to be obtained from the Governor, authorizing the person therein named to be employed as a Teacher although an alien.

To annul former Certificates to Teachers when he shall see fit.

Sixthly. To annul any Certificate given by him or any of his predecessors in office, whenever he shall see just cause for doing so, assigning his reasons, and giving the Teacher holding such Certificate an opportunity, if he shall feel himself aggrieved, to appeal to the Superintendent of Schools.

To prevent the use of certain books.

Seventhly. To prevent the use of all unauthorized foreign school books in the English branches of education—to recommend the use of proper books for Schools, and to determine as to the Teacher, and regulations of Model Schools, in the manner hereinafter provided.

To decide disputes, &c.

Proviso.

Proviso.

Eighthly. To decide upon all questions of dispute which may arise between any of the parties interested under the operation of this Act, and which may be submitted to him by either of the parties concerned ; Provided always, that he may, if he shall deem it advisable, refer any such question as may be submitted to him to the Superintendent of Schools ; Provided also, that any aggrieved or dissatisfied party shall have the right of appeal to the Superintendent of Schools.

To retain monies uncalled for.

Ninthly. To retain in his hands, subject to the order of the Superintendent of Schools, all monies which may have been apportioned for his District for the year, and which have not been called for or expended according to the provisions of this Act.

Tenthly.

Tenthly. To act in accordance with the directions of the Superintendent of Schools, and to make an Annual Report to him, at such time and in such form as may be appointed by the said Superintendent of Schools; and to furnish the said Superintendent from time to time with such additional information as he may require; Provided furthermore, that every such Annual Report of the District Superintendent, shall state :

To transmit an annual Report to the Superintendent of Schools.

Proviso.

First. The whole number of School sections or parts of sections separately set off within each Township, Town or City in his District.

Such Report to shew : Number of sections ;

Secondly. The number of children taught in each of the said sections or parts of sections over the age of five and under the age of sixteen years; and also the number of children residing in each, over the age of five and under sixteen years.

Number of Children ;

Thirdly. The length of time a School shall have been kept in each of such sections, or parts of sections, by a qualified Teacher, the books used and the subjects taught, and whether the Trustees have duly reported.

Time during which Schools have been open ;

Fourthly. The amount of monies which have been received by and collected in each of the said sections and parts of sections—distinguishing the amount apportioned by the Superintendent of Schools, the amount received from the District School Tax, the amounts raised by the Trustees, and the amount from any other and what sources; also, how all such monies have been expended, and whether any and what part remains unexpended, and from what cause or causes.

Monies received and expended ;

Fifthly. The number of his School visits during the year, the whole number of School Houses in each Township, Town or City, the number hired, and the number erected during the year, and of what character and by what means.

Number of his visits—and of School houses;

Sixthly. So far as he may be able to ascertain, the number of private Schools kept in each Township, Town or City in his District, the number of the pupils, and the subjects taught therein.

Private Schools in his section ;

Seventhly. The number and extent of the School and public Libraries in his District, where situate, how established and supported; also any other information which he may possess respecting the educational state, wants, and advantages of his District, and any suggestions he may think proper to make with a view to the improvement of the Schools and the diffusion of useful knowledge in such District.

School and Public Libraries, &c.

XIV. And be it enacted, That the Visitors of each Township, Town or City, shall be—all Clergymen or Ministers recognized by law, of whatever denomination, who reside or have pastoral charge in such Township, Town or City; the Judge of the District Court; the Warden of the District, and the Councillor or Councillors representing the Township in the Municipal Council of the District; also, all Resident Justices of the Peace; but no Minister, Priest, Ecclesiastic, or Justice of the Peace shall be entitled to visit or inspect any *separate* School not of his own persuasion, except by the consent of the Trustees of such School.

Who sh all be Visitors of Schools.

Duties of Visitors
Attendance at
examinations.

Remarks to
Superintendent.

Visitors may
hold a General
Meeting for
certain purposes.

Certificates to
Teachers.

District Superintendent may,
on some person
being designated by the
Municipal
authority, cause such
person to give
notice of first
School section
meeting.

Another such
meeting to be
held in January
in every
year—and
notice thereof
to be given.

Who shall pre-
side at every
School section
meeting.

XV. And be it enacted, That it shall be lawful for each of the said Visitors to visit, as far as practicable, all the Schools in such Township, Town or City, especially to attend the quarterly examinations of Schools, and at the time of such visit to examine the progress of the pupils, and the state and management of the School, and to give such advice to the Teacher and pupils as he may deem expedient according to the regulations and directions for Visitors which shall be prepared by the Superintendent of Schools: It shall also be lawful for such Visitors as may be present at any School Examination to report the same with any remarks they may think proper, to the District Superintendent, and to make, either collectively or individually to the said District Superintendent, such other Report or Reports as they may judge expedient, respecting the condition, character and progress of the Schools in such Township, Town or City.

XVI. And be it enacted, That a General Meeting of such Visitors may be held at any time or place which may be appointed by the Senior Justice of the Peace, or any two Visitors, on sufficient notice being given to the other Visitors in such Township, Town or City, and that it may be lawful for such Visitors thus assembled to devise such means as they may deem expedient for the efficient visitation of the Common Schools, and to promote the establishment of Libraries and the diffusion of useful knowledge in such Township, Town or City; it shall also be lawful for any two of such Visitors to examine and give a Certificate in a form prescribed by the Superintendent of Schools, to any Candidate for teaching whom they shall judge qualified to teach in a Common School; such Certificate, however, only authorizing the applicant to teach one year in the School specified.

XVII. And be it enacted, That whenever any School section shall be formed in any Township, Town or City, it shall be the duty of the municipal authority to designate some person or persons in such section, to whom the District Superintendent shall communicate the description and number of such section, and which person or persons shall, within twenty days thereafter prepare a notice in writing, describing such section, and appointing a time and place for the first School section meeting, and shall cause copies of such notice to be posted in at least three public places in such School section, at least six days before the time of holding such meeting.

XVIII. And be it enacted, That after such first School section meeting there shall be a like meeting held in such School section on the second Tuesday of January in each year, at the hour of twelve of the clock at noon, at such place as shall be specified by a majority of the School Trustees in such section, who shall cause notices of such Annual Meeting to be posted in at least three public places in such School section, at least six days before the time of holding such meeting.

XIX. And be it enacted, That at every such first School section meeting, and at every such Annual School section meeting, the Senior Justice of the Peace present, or in default of any Justice of the Peace being present, such other person as shall be appointed by a majority of the landholders and householders of such School section who shall be present at such meeting, shall preside over the proceedings of such meeting, and shall immediately after such meeting communicate to the District Superintendent the name or names, and address of the person or persons chosen Trustee or Trustees, and the number of their School section.

XX.

XX. And be it enacted, That should no such first or Annual School section meeting be held in consequence of the notice herein before required not having been given, the person or persons whose duty it was to give such notice shall individually forfeit a sum not exceeding two pounds, which shall be recoverable for the School purposes of such section, by prosecution before any Justice of the Peace, who is hereby authorized on the complaint on oath of any two inhabitants of such section to hear and determine the same, and to convict the party and to issue a warrant to levy the penalty by such sale and distress of the offender's goods: And in such default of holding such meeting, any three resident freeholders shall have authority, within twenty days after the time in which such meeting should have been held, to call such meeting by giving six days notice, to be posted in at least three public places in such School section.

Penalty against persons who shall not have given notice of first or Annual School section meeting—£2.

XXI. And be it enacted, That at the first School section meeting which shall be held in a newly formed section, the landholders and householders thereat shall elect three Trustees, who shall continue in Office until the next ensuing Annual School Meeting of such section.

Trustees to be elected at first School section meeting.

XXII. And be it enacted, That at the first Annual School Meeting held in any School section after the passing of this Act, the persons qualified to vote thereat shall elect, by a majority of votes, three Trustees, who shall be numbered one, two, three; (the order to be determined by lot,) the first of whom shall continue in office one year, the second two years, the third three years; at the end of which periods they shall respectively be replaced by others; and that at each succeeding Annual School Meeting of such section, the persons present qualified to vote shall elect one Trustee, who shall continue in office three years, and until a successor is elected: Provided that any Trustee, if willing, may be re-elected.

And at first and subsequent Annual School meetings.

XXIII. And be it enacted, That if any person chosen as a Trustee shall refuse to serve, he shall forfeit a sum not exceeding five pounds, which sum shall be collected and applied in the same manner as other fines imposed by this Act; and if one or more vacancies shall occur among the Trustees, by reason of refusal to serve, permanent absence from the School section, death or incapacity from sickness, such vacancy or vacancies shall be filled up by the electors of such School section at a meeting to be called for that purpose by the surviving Trustee or Trustees; and in case of their being no surviving Trustee, the District Council of the District shall fill up the vacancies, and the person or persons who shall be appointed to fill up a vacancy or vacancies shall continue in office during the period for which the person or persons whom he or they shall succeed would have been required to serve.

Penalty on any person refusing to serve as Trustee—£5.

Vacancies how filled.

XXIV. And be it enacted, That no School Trustee shall be re-elected except by his own consent during the four years next after his going out of office.

No Trustee to be re-elected without his consent during a certain time. Trustees to be a Corporation.

XXV. And be it enacted, That the School Trustees in each School section, shall be a Corporation, under the name of "*The School Trustees of Section*" "*number*" "*in the Township (Town or City) of*" "*in the*" "*District*,"—and shall have perpetual succession, and a Common Seal, and may sue and be sued, and shall generally have the same powers which any other body politic

Corporate powers.

politic or corporate has with regard to the purposes for which it is constituted; but they shall not at any time hold real property.

Corporation
not to cease in
certain cases.

XXVI. And be it enacted, That no such Corporation shall cease by reason of the want of School Trustees, but in such case the powers of the Corporation as regards the possession of any personal property shall become vested in the District Superintendent, in trust, until it shall be otherwise provided by law, and the School House, lands, or other real property belonging to the Common School or Common Schools, in any section under any law or by any title whatsoever, is hereby vested in the District Council, for the several Common Schools, and in trust for such Schools, respectively.

Duties of
Trustees.

XXVII. And be it enacted, That it shall be the duty of the Trustees of each School section :

To appoint a
Secretary-
Treasurer.
His duties.

First. To appoint one of themselves Secretary-Treasurer, who shall keep a Minute of their proceedings in a book kept for that purpose,—shall receive the monies collected by rate-bill or subscription from the inhabitants of the School section, and shall be responsible for such monies to his colleagues, and shall pay them to the Teacher, after defraying the expense of collection, in such manner as may be directed by the majority of the Trustees.

And a Collec-
tor.
His duties.

Secondly. To appoint a Collector if they shall think it expedient, to collect the sums which they have imposed upon the inhabitants of their School section, or which the said inhabitants may have subscribed, and to pay such Collector not to exceed at the rate of Five per cent. for his trouble in collecting; and every Collector shall give such security as may be satisfactory to the Trustees, and shall have the same power in collecting the School rate, or subscription, and proceed in the same manner and be subject to the same liabilities in the discharge of his duty as is or may be by law provided in respect of Collectors of the District rates and assessments.

To take and
hold property
for Common
School pur-
poses.

Thirdly. To take possession of all Common School property, which may have been acquired or given for Common School purposes in such section, and to acquire and hold for the Corporation by any title whatsoever, all personal property, monies or income for Common School purposes, until the power hereby given shall be taken away or modified by law, and to apply the same according to the terms of acquiring or receiving them.

To build, re-
pair, &c.
School houses,
&c.
Proviso.

Fourthly. To do whatever may be expedient with regard to building, repairing, renting, renewing, warming, or keeping in order the School House and its appendages, lands, fences and immovable property which shall be held by them: Provided that no rate shall be levied for the building of a School House in any School section, otherwise than under a By-law of the District Council, but such By-law may be made by the District Council at any meeting thereof, and the rate may be forthwith placed on the Collector's Rolls by the Clerk of the Peace, and collected by the Collector; any thing in any Act passed during the present Session, or at any previous time, and limiting the period at which By-laws, imposing Taxes, are to be passed in any year, to the contrary notwithstanding.

Fifthly

Fifthly. To cause in their discretion to be levied by rate-bill, in the manner hereinafter provided by this Act, or by voluntary subscriptions, any additional sum that may be necessary to pay the salary of the Teacher and the incidental expenses of the School, such as repairing, furnishing and keeping the School House in order, and in case there be no School House, providing a suitable place for the School, providing fuel in a state fit for use in the School House selected, and all things necessary for the comfort of the pupils ; and before such Trustees, or any one on their behalf shall be entitled to receive from the District Superintendent their share of the Common School Fund, they shall furnish him with a declaration from the Secretary-Treasurer, that he has actually and *bonâ fide* received and has in his possession for the payment of the Teacher, or has paid such Teacher a sum sufficient with such allowance from the Common School Fund for the purposes aforesaid.

To levy by Rate-bill a certain additional sum.

Declaration required before they shall receive School monies.

Sixthly. To prepare and determine a rate-bill quarterly, containing the name of every person liable to pay for the instruction of children sent by him to such Schools, and the amount for which he is liable, and by themselves or any one of them, or by their Collector, to collect from every person named in such rate-bill, the amount therein charged against him, and in case they employ a Collector, five *per centum* on such amount for the cost of collection, and to pay the amount so collected to the Teacher or Teachers entitled to receive the same ; Provided that, every person sending a child or children to any Common School, shall be rated for a period of not less than two-thirds of the current quarter.

To fix Rate-bill per quarter, &c.

Seventhly. To exempt wholly or in part from the payment of the rate-bill such indigent persons within their School section as they shall think proper ; and in default of payment by any person rated, to levy the amount by distress, and sale of the goods and chattels of the person or persons making default ; and in case such person or persons reside without the School section, and have no goods or chattels within it, at the time of making such collection, to sue and recover by their name of office, the amount from such person or persons ; and for the collection of such rate, the Collector appointed by the Trustees shall have, within their School section, the same powers as the Collector of any District rates.

To exempt indigent persons from payment of Rate-bill.

Eighthly. To ascertain the number of children residing in their School section, over the age of five and under sixteen years, and to allow them, without exception, to attend the Common School so long as their conduct shall be agreeable to the rules of such School.

To ascertain number of children in School section.

Ninthly. To appoint and engage, from time to time, a Teacher duly qualified to teach in the School under their control, according to the provisions of this Act ; and to give such Teacher the necessary orders upon the District Superintendent for the portion of the School Fund, to which their School section may be entitled.

To engage Teachers.

Tenthly. To select from a list of books made out by the Board of Education, under the sanction of the Governor in Council, as hereinbefore provided, the books which shall be used in the School.

To select books.

Eleventhly.

To make a
Report to Dis-
trict Superin-
tendent.

Eleventhly. To see that the School is conducted according to the regulations herein provided for ; and to prepare and transmit annually, on or before the second Tuesday of January, a Report to the District Superintendent, which Report shall be signed by a majority of the Trustees, and made according to a form which shall be provided by the Superintendent of Schools, and shall specify :

What such
Report shall
show.
Time during
which the
School has
been kept.

First. The whole time a School has been kept by a qualified Teacher or Teachers in their section during the year ending the thirty-first day of the previous December, the day before that on which the Report shall be dated, except when the year commences on a Sunday, in which case the Report shall be dated on the second day of January in the year in which it shall be transmitted.

Accounts.

Secondly. The amount of monies received from the District Superintendent, and the amount of monies received from other sources, distinguishing the same ; and the manner in which all such monies have been expended.

Number of
children
taught.

Thirdly. The number of Children taught in the section School during the year, and the number of children residing in the section, over the age of five years and under the age of sixteen.

What is
taught in the
School.

Fourthly. The branches taught in the School ; the number of pupils in each ; and the text books used.

Duties of
Teachers of
Common
Schools.

XXVIII. And be it enacted, That it shall be the duty of every Teacher of a Common School—

To teach.

First. To teach diligently and faithfully, all the branches required to be taught in the School, according to the terms of his engagement with the Trustees, and according to the provisions of this Act.

To keep Re-
gisters.

Secondly. To keep the daily, weekly and quarterly registers of the School, and to maintain proper order and discipline therein, according to the regulations and forms which shall be prepared by the Superintendent of Schools.

To hold ex-
aminations.

Thirdly. To have at the end of each quarter, a public examination of his School, of which he shall give notice, through the children, to their parents and guardians, and shall also give due notice to the Trustees and any School Visitors who may reside in or adjacent to such School section.

To act as
Secretary to
the School
Trustees.
Proviso.
Proviso.

Fourthly. To act as the Secretary to the Trustees, if they shall require it, in preparing their Annual Report : Provided always, that he is a Teacher in such School at the time of preparing such Report as is required by this Act : Provided likewise, that the District Superintendent shall have authority to withhold from any School section the remainder of the share of the Common School Fund which has been apportioned to such section, and which shall be in his hands on the first day of December of each year, until he receives from the Trustees of such section their annual Report required by law for such year.

XXIX. And be it enacted, That the sum of money annually distributed for the encouragement of Common Schools in Upper Canada, shall be payable on the first day of August in each year, by warrants to the Superintendents of Common Schools of the several Districts in Upper Canada aforesaid.

Sum distributed to Common Schools to be payable on 1st August in each year.

XXX. And be it enacted, That no foreign books, in the English branches of Education, shall be used in any Model or Common School, except by the express permission of the Board of Education.

No foreign books to be used without permission.

XXXI. And be it enacted, That in any Model or Common School, established under this Act, no child shall be required to read or study in or from any religious book, or to join in any exercise of devotion or religion, which shall be objected to by his or her parents or guardians.

Children not to be required to use religious books objected to by their parents.

XXXII. And be it enacted, That in all cases wherein the Teacher of any Common School shall happen to be a Roman Catholic, the Protestant inhabitants of the section to which such School belongs shall be entitled to have a School with a Protestant Teacher, upon the application of ten or more resident landholders or householders of any such School section, or within the limits assigned to any Town or City School; and in like manner when the Teacher of any such School shall happen to be a Protestant, the Roman Catholic inhabitants shall have a separate School, with a Teacher of their own religious persuasion, upon a like application.

Separate Schools may be established for Protestants and Roman Catholics in any locality.

XXXIII. And be it enacted, That such applications shall be made in writing, signed with the name of each landholder or householder, and addressed and transmitted to the District Superintendent; and such application shall contain the names of three Trustees, who shall be the Trustees of such separate School; and, upon the compliance of such Trustees with the requirements of this Act, such School shall be entitled to receive its share of the public appropriation, according to the number of children of the religious class or persuasion who shall attend such separate School; which share shall be determined by the District Superintendent; and such separate Schools shall be subject to the visitations, conditions, rules and obligations provided in this Act, with reference to other Common Schools.

Conditions and mode of establishing such separate Schools.

XXXIV. And be it enacted, That it shall be lawful for the Council of any District in Upper Canada, if they deem it proper to do so, to raise and levy, by District rate, a sum not exceeding in any one year two hundred pounds, and to appropriate and expend the same for the maintenance of one or more District Model Schools within such District, appointing at least three Trustees of each such Model School: Provided always, that by such By-law or By-laws there shall be appropriated, from the District rates, for the payment of Teachers and the purchase of books and apparatus, and other necessary expenses, for each Model School, a sum of not less than forty pounds, yearly.

Model Schools may be established in the District.

Provide.

XXXV. And be it enacted, That whenever it shall appear, to the satisfaction of the Governor, that any such District Council has thus appropriated and expended in any year, for the payment of a Teacher or Teachers, and the purchase of books and

Allowance to be granted for such Model Schools.

and apparatus for such District Model School or Schools, a sum of not less than forty pounds, it shall be lawful for the Governor to issue his Warrant to the Receiver General, directing him to pay to the District Superintendent of such District, as a further aid towards the support of such School or Schools during such year, a sum equal to one half of the amount so raised and expended; Provided always, that there be not thus granted in any year, for the support of such Schools in any one District, a larger sum than fifty pounds, and also that the whole amount thus to be granted in any one year, for the support of District Model Schools in Upper Canada, do not exceed five hundred pounds.

Proviso:
Amount of al-
lowance limit-
ed.

Such sum to
be paid out of
the Common
School fund.

XXXVI. And be it enacted, That the Superintendent of Schools, before making the yearly apportionment of the grant in aid of Common Schools as hereinbefore provided, shall deduct from the same the aggregate of all amounts thus advanced for the support of the Normal Schools and District Model Schools during the preceding year; and he shall also deduct, if he shall deem it expedient, a sum not exceeding two hundred pounds per annum, in aid of Common Schools in new Townships not yet represented in any District Council.

How such
sums shall be
expended and
accounted for.

XXXVII. And be it enacted, That all monies to be thus granted in aid of District Model Schools, shall be expended by the District Superintendent receiving the same, or by his successor in office, in the payment of Teachers and the purchase of books and apparatus and other necessary expenses for such Schools exclusively, and within the year for which the same shall have been granted, and he shall account for the expenditure or non-expenditure of such monies in the same manner as he is required to account for all other School monies which may come into his hands.

Powers of
District Super-
intendents as
to Teachers for
Model Schools.

XXXVIII. And be it enacted, That it shall not be competent for the Trustees of any District Model School, constituted as aforesaid, to appoint any person to be Teacher in the same, unless with a special approval in writing by the District Superintendent of their selection of such person as a Teacher, and also of the terms of their engagement with him; nor yet to make any arrangement for the internal administration of such School, unless in like manner approved by the District Superintendent; and the said District Superintendent shall have power to suspend or dismiss any such Teacher, if he shall consider it necessary to do so, and to appoint any person to be a Teacher to any vacancy which the Trustees may refuse or neglect to fill up within thirty days after he shall have notified them of the same; and also to make and enforce any regulations he may see fit to make for the administration of such Schools.

Teachers to be
examined by
Principal of
Normal School
when estab-
lished.

XXXIX. And be it enacted, That whenever a Normal School shall be in operation in Upper Canada, no person shall be appointed to be a principal Teacher in any District Model School, who shall not have produced to the District Superintendent a certificate of qualification and ability, signed by the Principal or Head Master of such Normal School.

Teachers to be
instructed gra-
tuitously in
Model Schools.

XL. And be it enacted, That at every such District Model School, gratuitous instruction shall be afforded to all Teachers of Common Schools within the District in which such Model School may be established, during such period and under such regulations as the District Superintendent may from time to time direct.

XLI.

XLI. And be it enacted, That the Teachers who shall receive certificates of qualification, under this Act, shall be arranged in three classes, according to their attainments and ability, in such manner as shall be prescribed by the Superintendent of Schools, with the concurrence of the Board of Education, and the sanction of the Governor in Council.

Teachers to be divided into three classes.

XLII. And be it enacted, That it shall be lawful for any District Council to authorize the establishment of both a female and male School in any School section, each of which shall be subject to the same regulations and obligations as Common Schools generally.

District Council may authorize establishment of a male and female School in any section.

XLIII. And be it enacted, That the Corporate City of Toronto and Town of Kingston shall be considered each a Municipal District for all the purposes of this Act; and the Corporation of each of the said City and Town shall have all the authority and be subject to all the obligations within the limits of each of the said City and Town, respectively, which are conferred and imposed by this Act upon each Council of a District.

Toronto and Kingston to be Municipal Districts for purposes of this Act.

XLIV. And be it enacted, That the word "Governor" whenever it occurs in this Act shall include the Governor or any person administering the Government of this Province; and the word "Teacher" shall include female as well as male Teachers, except when applied to the Teacher of a Normal or Model School, in which case it shall apply to a male Teacher only; and that the words "Upper Canada" whenever they occur in this Act shall mean all that part of this Province which formerly constituted the Province of Upper Canada.

Interpretation clause.

XLV. And be it enacted, That this section and the first ten sections of this Act shall have force and effect immediately after the passing *therefore*,* any thing contained in any previous Act to the contrary notwithstanding; and the remaining sections of this Act, from the eleventh to the forty-fourth, inclusive, shall have force and effect upon, from and after the first day of January, one thousand eight hundred and forty-seven, and not before; and upon, from and after the said day the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act for the establishment and maintenance of Common Schools in Upper Canada*, shall be repealed, excepting in so far as the same repeals any former Act, or any part thereof: Provided always, that all penalties incurred under the said Act, shall be collected in the same manner, upon and after the first day of January, one thousand eight hundred and forty-seven, as if the said Act were in force: Provided also, that all monies which shall remain in the hands of Township, Town or City Superintendents of Schools on the first day of January, one thousand eight hundred and forty-seven, shall immediately thereafter be paid over to the District Superintendents, to be retained and disposed of by them as other monies remaining in their hands at the end of the year: Provided likewise, that all those divisions of Townships, Towns or Cities, which in the said Act are called "School Districts," shall, upon and after the said first of January, one thousand eight hundred and forty-seven, be called "School Sections," and be so considered for all the purposes of this Act, until altered in the manner hereby provided.

When this Act shall come in force.

* Sic.

7 Vict. c. 29. repealed.

Proviso.

Proviso.

Proviso.

Proviso:
Amount of allowance limited.

and apparatus for such District Model School or Schools, a sum of not less than forty pounds, it shall be lawful for the Governor to issue his Warrant to the Receiver General, directing him to pay to the District Superintendent of such District, as a further aid towards the support of such School or Schools during such year, a sum equal to one half of the amount so raised and expended; Provided always, that there be not thus granted in any year, for the support of such Schools in any one District, a larger sum than fifty pounds, and also that the whole amount thus to be granted in any one year, for the support of District Model Schools in Upper Canada, do not exceed five hundred pounds.

Such sum to be paid out of the Common School fund.

XXXVI. And be it enacted, That the Superintendent of Schools, before making the yearly apportionment of the grant in aid of Common Schools as hereinbefore provided, shall deduct from the same the aggregate of all amounts thus advanced for the support of the Normal Schools and District Model Schools during the preceding year; and he shall also deduct, if he shall deem it expedient, a sum not exceeding two hundred pounds per annum, in aid of Common Schools in new Townships not yet represented in any District Council.

How such sums shall be expended and accounted for.

XXXVII. And be it enacted, That all monies to be thus granted in aid of District Model Schools, shall be expended by the District Superintendent receiving the same, or by his successor in office, in the payment of Teachers and the purchase of books and apparatus and other necessary expenses for such Schools exclusively, and within the year for which the same shall have been granted, and he shall account for the expenditure or non-expenditure of such monies in the same manner as he is required to account for all other School monies which may come into his hands.

Powers of District Superintendents as to Teachers for Model Schools.

XXXVIII. And be it enacted, That it shall not be competent for the Trustees of any District Model School, constituted as aforesaid, to appoint any person to be Teacher in the same, unless with a special approval in writing by the District Superintendent of their selection of such person as a Teacher, and also of the terms of their engagement with him; nor yet to make any arrangement for the internal administration of such School, unless in like manner approved by the District Superintendent; and the said District Superintendent shall have power to suspend or dismiss any such Teacher, if he shall consider it necessary to do so, and to appoint any person to be a Teacher to any vacancy which the Trustees may refuse or neglect to fill up within thirty days after he shall have notified them of the same; and also to make and enforce any regulations he may see fit to make for the administration of such Schools.

Teachers to be examined by Principal of Normal School when established.

XXXIX. And be it enacted, That whenever a Normal School shall be in operation in Upper Canada, no person shall be appointed to be a principal Teacher in any District Model School, who shall not have produced to the District Superintendent a certificate of qualification and ability, signed by the Principal or Head Master of such Normal School.

Teachers to be instructed gratuitously in Model Schools.

XL. And be it enacted, That at every such District Model School, gratuitous instruction shall be afforded to all Teachers of Common Schools within the District in which such Model School may be established, during such period and under such regulations as the District Superintendent may from time to time direct.

XLI.

XLI. And be it enacted, That the Teachers who shall receive certificates of qualification, under this Act, shall be arranged in three classes, according to their attainments and ability, in such manner as shall be prescribed by the Superintendent of Schools, with the concurrence of the Board of Education, and the sanction of the Governor in Council.

Teachers to be divided into three classes.

XLII. And be it enacted, That it shall be lawful for any District Council to authorize the establishment of both a female and male School in any School section, each of which shall be subject to the same regulations and obligations as Common Schools generally.

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Interpretation clause.

XLV. And be it enacted, That this section and the first ten sections of this Act shall have force and effect immediately after the passing *therefore*,* any thing contained in any previous Act to the contrary notwithstanding; and the remaining sections of this Act, from the eleventh to the forty-fourth, inclusive, shall have force and effect upon, from and after the first day of January, one thousand eight hundred and forty-seven, and not before; and upon, from and after the said day the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act for the establishment and maintenance of Common Schools in Upper Canada*, shall be repealed, excepting in so far as the same repeals any former Act, or any part thereof: Provided always, that all penalties incurred under the said Act, shall be collected in the same manner, upon and after the first day of January, one thousand eight hundred and forty-seven, as if the said Act were in force: Provided also, that all monies which shall remain in the hands of Township, Town or City Superintendents of Schools on the first day of January, one thousand eight hundred and forty-seven, shall immediately thereafter be paid over to the District Superintendents, to be retained and disposed of by them as other monies remaining in their hands at the end of the year: Provided likewise, that all those divisions of Townships, Towns or Cities, which in the said Act are called "School Districts," shall, upon and after the said first of January, one thousand eight hundred and forty-seven, be called "School Sections," and be so considered for all the purposes of this Act, until altered in the manner hereby provided.

When this Act shall come in force.

* Sic.

7 Vict. c. 29. repealed.

Proviso.

Proviso.

Proviso.



A N N O N O N O

V I C T O R I Æ R E G I N Æ .

C A P . X X I .

An Act to amend the Laws incorporating the City of Montreal, and to facilitate the decision of cases wherein the right of any party to any office in the Corporation may be called in question.

[23rd May, 1846.]

WHEREAS it is expedient to amend the Laws incorporating the City of Montreal, and to make provision for facilitating the decision of cases in which the right of any person to hold or exercise any Office in the Corporation of the said City may be called in question : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That after the passing of this Act, the Court of Queen's Bench for the District of Montreal, sitting in Superior Term for the cognizance of suits and actions of a civil nature, or any two or more Justices of the said Court in vacation, shall, on the information (*requête libellée*) of any Citizen of the said City qualified to vote at the election of Councillor for some Ward thereof, supported by affidavit to the satisfaction of the Court or of such Justices, and complaining that any person illegally exercises, or assumes or attempts to exercise the office of Mayor, Alderman or Councillor of the said City, have full power and authority to order the person so complained of to appear before such Court or Justices, and to shew by what authority he exercises, or assumes or attempts to exercise such office ; and such order shall be served (with a copy of the information) upon the party complained of, at least three days before that on which such party shall be ordered to appear ; and the said Court or such Justices shall have full power and authority thereupon to try and adjudge upon the right of the person so complained of to exercise the Office in question and to make such order in the case, and to cause (if need shall be) such Writ of *Mandamus* or Order to be addressed to the Corporation of the Mayor, Aldermen and Citizens of Montreal, as to right and justice may appertain ; and such Order or Writ shall be obeyed by the said Corporation, and by all other parties whatsoever, and from the Judgment of the said Court or Justices in any such matter as aforesaid, there shall be no appeal ; and the said Court or such Justices shall have full power to tax and award such costs against any

Preamble.

Court of Queen's Bench or two Justices in vacation to try and adjudge cases under this Act.

Process.

Proviso. any party as in their discretion they shall deem right: Provided always, that so far as may be consistent with this Act, the forms of proceeding in any such case as aforesaid, shall be as summary as may be consistent with a due examination into the merits of the case: And provided also, that this Act shall apply to cases where the party complained of exercised, or assumed or attempted to exercise the office in question before the passing of this Act; and that any proceedings commenced in Term before the Court may be continued before two or more Justices thereof in vacation, and any proceedings commenced before such Justices in vacation may be continued before the said Court in Term: and such Justices in vacation shall have as ample power to summon, compel the attendance of, swear and examine all parties or persons whose evidence may be required, as the said Court hath in any case when sitting in Superior Term.

Clerk of the City to preside at each election of a Mayor. II. And be it enacted, That notwithstanding any thing to the contrary in the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to amend and consolidate the provisions of the Ordinance to incorporate the City and Town of Montreal, and of a certain Ordinance amending that Ordinance, and to vest certain other powers in the Corporation created by the said first mentioned Ordinance*, the Clerk of the City shall preside at each election of a Mayor of the said City, and not the person who shall have been Mayor for the then last Term, although he be still a Member of the Council; and if there be no Clerk of the City, then a Councillor shall be chosen by a majority of the Councillors present to preside at the election, and such presiding Councillor shall vote as a Councillor, and if the votes be then equally divided, shall have a casting vote and so determine the election.

If there be no Clerk, a Councillor to be chosen to preside. To have a casting vote.

Mayor to appoint a day for elections for the East Ward. III. And be it enacted, That it shall be lawful for the Mayor of the said City, to appoint a day on which the Inhabitant householders and persons duly qualified to vote in the East Ward of the City, shall assemble and elect from the persons duly qualified to be Members of the Council, a person to fill the vacancy now and since the first Monday in March last past, existing in the representation of the said Ward, in the said City Council, and two fit and proper persons to be Assessors for the said Ward for the present year and until a new election for Assessors in the said Ward will be required to be held by law: And whensoever hereafter it may happen that from any cause whatsoever an election for a Member or Members of the said Council of the said City shall not take place in any Ward or Wards of the said City at the time fixed therefor by law, or appointed therefor by the Mayor of the said City, it shall be lawful for the said Mayor, as soon thereafter as expedient, to appoint a time and place when an election or elections, in lieu and place thereof, shall be held and take place.

Notice to be given.

Assessments may be made after 10th May. IV. And be it enacted, That notwithstanding any thing to the contrary in any Act or law heretofore passed, or in force in this Province, it shall not be necessary for the assessment in the said City to be made between the tenth day of May and the tenth day of June in each year, but that the powers and authority of the Assessors elected and appointed or to be hereafter elected and appointed under and by virtue of the said Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to amend and consolidate the provisions of the Ordinance to incorporate the City and Town of Montreal, and of a certain Ordinance amending that Ordinance*,

Ordinance, and to vest certain other powers in the Corporation created by the first Ordinance, shall be and continue in force, and may be exercised for and during the period and term of their election and appointment, to wit, until the first Monday in March in the year next following their said election and appointment.

V. And be it enacted, That it shall be lawful for the said Council, at any meeting or meetings composed of not less than two-thirds of the Members thereof, to make a By-law or By-laws, which shall regulate and determine the time when the Assessors of the said City shall annually commence their duties, the manner in which they shall perform them, the period within which they shall annually make their first general return of the assessments to be levied and obtained in the said City, and the time and manner in which they may or shall correct their said return, by extending the same, and adding thereto the names of any parties omitted or who shall have become known to the said Assessors, or shall have arrived in the said City subsequently to the making thereof, or who shall have become liable to pay any assessment, tax or duty to the said City, at any time after the said general return shall or may have been made; and in the event of any vacancy or vacancies occurring in the office of Assessor or Assessors, by the non-election of any Assessor or Assessors, at the time fixed by law therefor, or by the absence or death of any person or persons elected or appointed to that office, or by the refusal or inability of any Assessor or Assessors elected or appointed, to attend to, perform and fulfil the duty or duties which he or they are or may be bound or required by law to attend to, perform and fulfil, it shall and may be lawful for the said Council, at any quarterly or special meeting thereof, to elect, nominate and appoint one or more competent and duly qualified person or persons to fill and supply such vacancy or vacancies.

Council to
make certain
By-laws.

VI. And be it enacted, That this Act shall be a public Act, and as such shall be judicially noticed by all Judges, Justices and other persons whomsoever, without being specially pleaded.

Public Act.

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RECEIVED



A N N O N O N O

V I C T O R I Æ R E G I N Æ.

C A P. X X I I.

An Act further to amend the Ordinances incorporating the City of Quebec, and for other purposes.

[23rd May, 1846.]

WHEREAS it is expedient to amend the Ordinance of the Legislature of Lower Canada, passed in the Session held in the third and fourth years of Her Majesty's Reign, and intituled, *An Ordinance to incorporate the City and Town of Quebec*, and the Ordinance of the said Legislature, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to amend the Ordinance to incorporate the City and Town of Quebec*, and to vest certain additional powers in the Corporation erected by the said Ordinances: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in all cases where a vacancy now exists, or shall hereafter exist in the office of Assessor for any of the Wards of the said City, from death or from an omission on the part of the Electors to elect an Assessor or Assessors at the time or times fixed by law, or whenever it shall so happen that an election of an Assessor or Assessors so made shall become void, or whenever a vacancy from any other cause shall exist in the said office, it shall and may be lawful for the Mayor and Councillors of the said City to declare such office of Assessor to be vacant, and thereupon to cause an Assessor to be elected to fill such vacancy, in the manner by law prescribed in cases where a vacancy occurs in the office of a Councillor for the said City.

Preamble.

Ordinances 3
& 4 Vict. c.
35. & 4 Vict.
c. 31 cited.

How vacancies
occurring in
the office of
Assessor in
the said City
may be filled.

II. And be it enacted, That for the present year the assessment for the St. Lewis and Champlain Wards of the said City may be made at any time during the said year, which may be appointed by the Council of the said City.

St. Lewis and
Champlain
Wards.

III. And whereas the great number of Hawkers, Pedlars and Petty Chapmen, trading and selling goods on the markets, streets, and public places within the limits of the City of Quebec, causes great inconvenience and annoyance to the public: Be it therefore enacted, That from and after the first day of July next, it shall not be lawful for any Hawker, Pedlar, Petty Chapman, or other person, to sell,

After 1st,
July, 1846.
no person to
sell goods on

the public
streets, &c., in
the City of
Quebec.
Penalty.

sell, expose to sale, or offer for sale, on any market, street, lane or public place within the limits of the City of Quebec, any goods, wares or merchandize ; and if any such Hawker, Pedlar, Petty Chapman, or other person, shall, from and after the said first day of July next, be found selling, exposing to sale, or offering for sale, any goods, wares or merchandize, on any market, street, lane or public place, within the limits of the said City of Quebec, every person so offending shall, for each and every such offence, forfeit a sum not exceeding five pounds, currency, to be recovered and applied as hereinafter mentioned ; any thing in any Act, Ordinance, or Law, or in any License granted under the same, to the contrary notwithstanding.

This Act not
to prevent the
selling of cer-
tain articles.

IV. Provided always, and be it enacted, That nothing in this Act contained shall extend or be construed to prohibit any person or persons from selling any Acts of the Legislature, Proclamations, Gazettes, Almanacs, or other printed papers, nor to hinder any person or persons, who are the real makers or workers of any goods, wares or manufactures, or his or their children, apprentices, agents, or the servants of such real workers or makers of such goods, wares or manufactures only, from exposing, offering or selling, by retail or otherwise, any of the said goods, wares and manufactures, nor to hinder or prohibit hucksters, or persons having stalls or stands in the markets in the said City, from selling or exposing to sale, any fish, fruits or victuals, in such stall or stands, they complying with such rules and regulations as by the City Council or other proper authority, are or may be established in that behalf.

Nor hucksters
having stalls
in the Mar-
kets.

Mode of re-
covering pen-
alties under
this Act.

V. And be it enacted, That each and every penalty by this Act imposed, may be recovered with costs of suit, before any Justice of the Peace for the District of Quebec, on proof of the offence, either by voluntary confession of the party or parties accused, or by oath of one or more credible witness or witnesses, other than the informer, (which oath every such Justice of the Peace is hereby authorized and empowered to administer ;) and if not paid within eight days after conviction, shall be levied by distress and sale of the offender's goods or chattels, by warrant under the hand and seal of such Justice of the Peace, directed to a Bailiff of the Court of Queen's Bench for the District of Quebec ; and any such penalty (when paid) shall, by the said Justice of the Peace, be paid over to the Treasurer of the said City of Quebec, and shall make part of the funds of the said City : Provided always, that if the offender shall not have sufficient goods and chattels to pay and satisfy such penalty and costs, it shall be lawful for such Justice of the Peace to commit such offender to the Common Goal of the District of Quebec, for such time not exceeding eight days, as to such Justice of the Peace shall seem meet.

How such
penalties may
be levied.

Distribution of
penalties.

Proviso, if
sufficient dis-
tress be not
found,

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. XXIII.

An Act to amend the Act amending certain provisions of the Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal.

[23rd May, 1846.]

WHEREAS experience has shewn that it is necessary to alter and amend a certain part of the Act of the Legislature of this Province, passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to alter and amend certain provisions of the Ordinance of the Governor and Council of Lower Canada, of the second year of Her Majesty's Reign, intituled, 'An Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal:'* Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That, from and after the passing of this Act, so much of the said recited Act as makes it lawful for any Justice or Justices of the Peace to levy the penalty imposed upon persons convicted under the said Ordinance of being loose, idle and disorderly, by attachment of their several goods and chattels and sale thereof, in all and every the cases mentioned in the said Act, shall be and the same is hereby repealed: Provided always, that it shall be lawful for any Justice or Justices of the Peace, by whom any person shall be convicted under the said Ordinance of being loose, idle and disorderly, to adjudge that such person shall pay the penalty imposed by the said recited Act, either immediately or within such period as he or they shall think fit; and that in default of payment at the time appointed, he or she shall be imprisoned in the Common Gaol or House of Correction at hard labour, for any time not exceeding two calendar months, the imprisonment to cease upon payment of the sum due.

Preamble.

7 Vict., c. 21.
cited.

Part of the
said Act re-
pealed.

Proviso.

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A N N O N O N O

V I C T O R I Æ R E G I N Æ.

C A P. X X I V.

An Act to allow the formation of more than one Agricultural Society in a County in Lower Canada, and for the relief of the Society for the County of Montreal.

[23rd May, 1846.]

WHEREAS from the great extent of some Counties in Lower Canada, and other local circumstances, it hath been found expedient to authorize the formation of more than one Agricultural Society in a County in that portion of the Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That after the passing of this Act, two, but not more than two Agricultural Societies, may be organized in and for any County in Lower Canada, to each of which and to the formation thereof, all the provisions of the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts therein mentioned, and better to encourage Agriculture in Lower Canada, by the establishment of Agricultural Societies therein*, shall apply, except in so far as it may be otherwise provided by this Act.

Preamble.

Two Agricultural Societies may be organized in any County in L. C.

II. And be it enacted, That in dividing any County so as to form two Agricultural Societies therein, such County shall be so divided that the extent of country and the population included in each division may be as nearly equal as may be found practicable; Provided that each Parish or Township shall be wholly included in one or in the other of such divisions, and shall not be itself divided: and the persons who shall vote at elections of members of each such Society, respectively, or who may be elected as members thereof, shall be those Subscribers of five shillings or upwards per annum towards the funds of such Society, who shall be resident in the division of the County for which such Society shall be constituted.

Divisions to be equal.

Voters.

III. Provided always, and be it enacted, That the sums to be paid out of the public money to both the Agricultural Societies in any County, shall not together exceed

Sums paid out of public money not to exceed

exceed £150
currency.

exceed the sum of one hundred and fifty pounds, currency; and provided also, that no member of one of the Agricultural Societies in any County shall be at the same time a Member of the other, excepting always Honorary Members.

Each Society
in turn to be-
come the Dis-
trict Society.

IV. Provided always, and be it enacted, That each of the Agricultural Societies in any County may in its turn, and subject to the requirements and provisions of the Act first above cited, become the District Society of the District in which the County is situate, and the two Societies in any County shall respectively be distinguished, in assigning their corporate names, as "The County Agricultural Society number one (or number two, *as the case may be*) of the County of _____," the elder Society being number one.

The late Dis-
trict Society of
Montreal—
Public monies
in the Treas-
urer's hands
how to be ap-
plied.

V. And whereas, The County Agricultural Society of the County of Montreal, having been the District Society for the District of Montreal for the year one thousand eight hundred and forty five, it appears that a certain sum of money remained in the hands of the Treasurer when the Society ceased to be such District Society, the same having been appropriated by the Society for the purchase of certain implements which had not been obtained in time, and the said Society hath prayed to be allowed to retain the same, and to appropriate it to the purposes of the Society, which prayer it is expedient to grant: Be it therefore enacted, That it shall be lawful for the said Society to retain any balance of public monies remaining in the hands of its Treasurer at the time it ceased to be such District Society as aforesaid, and to apply the same at any time before the first day of February, one thousand eight hundred and forty seven, for the importation of animals, grain, seeds, or agricultural implements of improved kinds, which shall thereafter be the property of the said County Society, and not of the District Society; any thing in the Act first above cited to the contrary notwithstanding.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. XXV.

An Act to provide for the removal of the place of holding the Circuit Court in the County of Lotbinière from St. Croix to Lotbinière, and of the Registry Office of the said County from the place where it is now held to St. Croix.

[23rd May, 1846.]

WHEREAS the Circuit Court for the Circuit of Lotbinière has not been in operation since the seat thereof was established by the Act constituting the said Court, in the Parish of St. Croix, to the detriment of the interests of the inhabitants of the western part of the County, who, on account of their great distance from Quebec, might have derived some advantage from the said Court, while the inhabitants of the eastern part of the County have suffered less, being so near to the Courts of Justice at Quebec; And whereas a similar Court has been found to work well in the Parish of Lotbinière; And whereas the inhabitants in the eastern parts of the County lie under great disadvantage by reason of the great distance at which they are from the site of the present Registry Office, which said Office is established at Lotbinière, at the western extremity of the County, instead of at St. Croix, the principal Parish of the County of Lotbinière; And whereas there are no legal means of remedying the evils complained of: Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That, from and after the passing of this Act, it shall and may be lawful for the Governor, Lieutenant-Governor, or Person administering the Government of this Province, by and with the advice of the Executive Council, to order the immediate removal of the place of holding the Circuit Court for the Circuit of Lotbinière, from the place where it is now held, to the Parish of Lotbinière,—and also the removal of the Registry Office of the said County from its present site to St. Croix, the principal Parish of the County of Lotbinière.

Preamble.

Governor in Council may order the removal of the said Court and Registry Office.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. XXVI.

An Act to remove all doubts as to the validity of certain Deeds, Instruments and Documents executed before Notaries in Lower Canada, and to secure the rights, titles and interests of all persons concerned therein.

[23rd May, 1846.]

WHEREAS since the re-union of the late Provinces of Upper and Lower Canada, Notarial Deeds and other Instruments and Documents have been executed in that part of this Province formerly the Province of Lower Canada, in which the Notaries before whom the same were executed have styled themselves Notaries of and for the Province of Canada, or have committed other errors of style, of a like nature; And whereas doubts have existed as to the validity and legal sufficiency of such Notarial Deeds and other Instruments and Documents, and it becomes necessary to remove all doubts as to the validity of the same, and to secure the rights, titles and interests of all persons concerned therein: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby declared and enacted by the authority of the same, That all Deeds, Instruments and Documents whatsoever, which, since the re-union of the said late Provinces, have been executed before two Notaries, or before one Notary and Witnesses, in that part of this Province which formerly constituted the Province of Lower Canada, and in which the Notaries before whom the same were respectively executed, being Notaries Public for that part of this Province last aforesaid, have styled themselves Notaries Public of and for the Province of Canada, or have omitted to state, or have incorrectly stated, for what portion of this Province they were authorized to act as Notaries Public, shall, nevertheless, be held to be as valid and binding in law, to all intents and purposes whatsoever, as if such Notaries had styled themselves Notaries Public of and for that part of this Province which formerly constituted the Province of Lower Canada, and notwithstanding such Deeds, Instruments or Documents, shall have already been declared not to be authentic or valid, and to be of non-effect, by reason of the informalities aforesaid, by any judgment rendered or pronounced before the passing of this Act in any of Her Majesty's Courts of Law, or in any other

Preamble.

Deeds, &c.,
executed be-
fore Notaries
in Lower
Canada, since
the reunion of
the Provinces,
to be valid in
law, although
informal.

No exception
of *chose jugée*
shall be plead-
ed on such
Deeds.

other Court or Courts in and for that part of this Province which formerly constituted the Province of Lower Canada, in any cause or action brought before the said Courts with reference to such Deeds, Instruments or Documents, or on any opposition, intervention, exception, or other proceeding, founded on such Deeds, Instruments or Documents; and that no exception *de chose jugée*, or (*res judicata*) shall in any case be pleaded against any party bringing any action after the passing of this Act, on such Deeds, Instruments or Documents, so declared not to be authentic or valid by any judgment already rendered in any of the said Courts, with respect to such Deeds, Instruments or Documents.

Parties may
petition the
Court and ob-
tain a reversal
of judgment.

II. And be it enacted, That it shall be lawful for the parties against whom such judgment shall have been rendered, and for their heirs or legal representatives, to present a Petition to the Court by which the same shall have been so rendered, pleading this Act, and praying that the benefit thereof be allowed to such parties; whereupon, after due notice given to all parties interested of the presenting of such Petition, the said judgment shall be held to be null and void and of no effect whatsoever, and the same hereby is annulled, set aside and vacated, and the said parties shall be and are hereby re-instated in all their rights, actions and legal remedies, as if such judgment had never been rendered: Provided always, that nothing in this Act contained shall in any wise prejudice, affect or alter the rights of any party or parties other than the party or parties to such Deeds, Instruments or Documents, his, her or their heirs or legal representatives, in all and every the cases in which such rights may have become vested in any such third party or parties, by reason of any judgment already rendered in and by any of the said Courts, and not otherwise; nor shall any thing in this Act contained be held to affect any condemnation to pay costs in and by virtue of any judgment rendered by reason of such informalities in any of the cases in this Act mentioned.

Proviso.
Saving the
rights of third
parties

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A N N O N O N O

V I C T O R I Æ R E G I N Æ.

·CAP. XXVII.

An Act to repeal certain Enactments therein mentioned, and to make better provision for Elementary Instruction in Lower Canada.

[9th June, 1846.]

WHEREAS the establishment of Common Schools for the instruction of youth is of paramount importance, and it is necessary to ensure more ample and less precarious funds, and to make better Legislative provision, and to adopt more effective measures than have been heretofore made or adopted for this purpose in Lower Canada, substituting such measures for those heretofore in force : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That, from and after the passing of this Act, there shall be in each of the Cities of Quebec and Montreal, and in each Municipality, Town or Village in Lower Canada, one or more Common Schools for the elementary instruction of youth, to be managed by School Commissioners in the manner hereinafter provided.

Preamble.

Common Schools to be established in the local divisions of Lower Canada.

II. And be it enacted, That each Municipality existing at the time of the passing of this Act, or which may be legally established hereafter, shall be a Municipality for the purposes of this Act : Provided nevertheless, that the inhabitants of any Town or Village Municipality, other than the Municipality of the Town of Three-Rivers, shall, for the purposes of this Act, be subject to the jurisdiction of the School Commissioners elected for the Municipality of which the Town or Village makes or did formerly make part, and shall have the right of voting at the election of such School Commissioners.

What shall be a Municipality for the purposes of this Act.
Provido, as to Villages.

III. And be it enacted, That no failure to elect any officer, or to assess or levy any rate, shall be construed to prevent the effect of any of the provisions of this Act, which shall be carried into effect by the Governor in Council, by the means of the Superintendent of Schools hereinafter mentioned, and of School Commissioners, Assessors, Collectors, Teachers and other Functionaries, who may be requisite according to the true intent and meaning of this Act, which Commissioners shall

Failure to elect School Officers in any local division provided for.

shall be appointed by the Governor in Council, at the instance of the Superintendent of Schools, and shall have the right of naming the Assessors, Collectors, Directors and other Functionaries, all of whom, in their several capacities, shall each have all the rights, powers and authority, which, under this Act, would have been possessed by the persons who ought to have been elected or to act, under the like names of office or with similar functions, and shall have the same duties and be liable to the same penalties.

Times of the first and other meetings for the election of School Commissioners.

IV. And be it enacted, That from and after the passing of this Act there shall be held each year, on the first Monday in July, a general meeting of all the landholders and householders of each Municipality, which meeting, if it be the first which is to be held in the Municipality for the election of a body of School Commissioners, shall be called by the Senior Justice of the Peace, or, in his default, by any other Resident Justice of the Peace, or, in their default, by any three landholders, by giving eight days previous public notice at the door of the Churches or places of Public Worship, or if there be no Church or place of Public Worship, then by a notice posted at two of the most public places in such Municipality ; and at such meeting the Senior Justice present, or in his default such other person as shall be appointed by the meeting shall preside, and that thereafter, at the general annual meeting for the election of School Commissioners, one of the Senior acting School Commissioners shall preside, provided that he be not a Minister of the Gospel, and if two Commissioners then present are of the same date in office, then the oldest by age shall preside ; if, nevertheless, from some cause or causes, such general meeting shall have been prevented from taking place on the first Monday in July, and the election in consequence could not be proceeded with, such meeting may be held and the election may take place on any of the ensuing Mondays in the same month : Provided, that if any such election shall have been commenced on the first or any subsequent Monday in July, and shall not have been closed on that same day, it may be continued on the morrow, and the day after the morrow, if necessary, but not longer : Provided, that for the present year the elections to take place, in accordance with this Act, may be made at any time before the first of October next : And provided also, that the time of holding these meetings shall be from ten o'clock in the forenoon until five in the afternoon.

Failure of election provided for.

Proviso. Election may be continued two days.

Election of School Commissioners.

V. And be it enacted, That at such meeting the persons qualified to vote thereat shall elect five School Commissioners, or shall elect the number of Commissioners required to fill the vacancies caused by the retiring of such of the present Commissioners who may go out of office as herein provided for.

Poll may be demanded.

How contestations shall be decided.

VI. And be it enacted, That if the choice of the said School Commissioners shall be contested, any three of the electors present may demand a poll, which shall be held in conformity to the regulations established in the Act then in force with regard to the election of Municipal Councillors ; and all contestations with regard to such elections and to the functions and powers assumed by the School Commissioners, or any of them, or their officers, or by any persons claiming to be such Commissioners or officers, may, by any person having authority as Visitor or otherwise over the School in the locality, or by any person assessed for their support, be brought by a petition (*requête libellée*) setting forth the case, of which a copy shall have been served on the parties concerned, before the Court of Queen's Bench for

for the District, sitting in Superior or Inferior Term, or before the nearest Circuit Court, and shall there be determined in a summary manner on the evidence which shall be adduced.

VII. And be it enacted, That the School Commissioners elected in the general meeting, or appointed by the Governor or Superintendent of Schools, as above mentioned, shall remain in office for three years, except that after the first election or nomination of a Board of Commissioners, two of them (to be determined by lot) shall go out of office at the end of one year, and two more (to be determined in like manner) shall go out at the end of two years, and the remaining one at the end of three years; the Chairman shall be liable, in common with the other School Commissioners, to go out of office if it be thus determined by lot, and such Commissioners going out of office shall be replaced by election in the general meeting, or else appointed by the Governor.

Period during which School Commissioners shall serve.

VIII. And be it enacted, That no School Commissioner shall be a Teacher of any School in his Municipality.

Not to be Teachers.

IX. And be it enacted, That the School Commissioners in office at the passing of this Act, shall continue to act as such until they shall be replaced by others under the provisions of this Act, but may, with their own consent, be re-elected under it: Provided nevertheless, that in those Municipalities in which there are at present more than five Commissioners elected, the said Commissioners, being assembled for that purpose in the course of July next, shall decide by lot the Commissioners who are to resign office, besides those designated under a preceding section of this Act, so that the number of the former Commissioners, elected or appointed as above stated, may be then reduced to three.

Present Commissioners continued for a certain time.

Proviso: Where there are now more than six.

X. And inasmuch as since the passing of the late Act for providing more effectively for Elementary Instruction, several elections of School Commissioners and Trustees have been made without the observance of all the formalities required by the said Act or not within the time prescribed: Be it enacted, That all proceedings of any such School Commissioners or Trustees, anterior to the passing of this Act, shall be considered as if the said School Commissioners or Trustees had been legally elected, and that they shall be entitled to act as such respectively until they are replaced in the manner provided by this Act; provided that the School Commissioners or Trustees thus elected have not been replaced by others appointed by the Governor or by the Superintendent of Schools: provided, that nothing in this Act contained shall interfere with the rights of any School Commissioners which at the time of the passing of this Act may be in litigation.

Elections under former Act confirmed though informal

Proviso.

XI. And be it enacted, That the Chairman of any general meeting shall, within eight days thereafter, report the proceedings thereat to the Superintendent of Schools, and transmit to him a list of the persons elected thereat as Commissioners, under a penalty of twenty-five shillings.

Report of proceedings at any meeting,

XII. And be it enacted, That for the Municipalities in which no election of School Commissioners shall have been had within the time hereby prescribed, the Superintendent of Schools shall, *ex officio*, upon an order from the Governor in Council, appoint them, and also a Secretary-Treasurer.

In default of election.

XIII.

Proviso:
Certain Func-
tionaries may
recommend
persons as
Commission-
ers.

XIII. Provided always, and be it enacted, That within fifteen days after the time when the said election ought to have been had, the School Commissioners for the then last year, three of the School Visitors, the acting Church-Wardens, Elder, Class-Leader or Trustees of the several religious denominations, and the Clergyman or Minister of the most numerous congregation, may meet and submit to the Superintendent of Schools the names of so many persons as School Commissioners as are provided by this Act; and on the approval of the Superintendent, signified to the Chairman of such meeting, such persons shall become School Commissioners for the purposes of this Act.

To be approved
by the Super-
intendent.

Vacancies
how filled.

XIV. And be it enacted, That if one or more vacancies shall happen among the School Commissioners, by reason of the permanent absence from the Parish, death or incapacity from sickness of any Commissioner, he shall be replaced by the electors for the locality, called together for that purpose by the Chairman or Temporary Chairman of the School Commissioners, and at which he himself, or in his absence one of the School Commissioners by him named, shall preside.

Re-election.

XV. And be it enacted, That no School Commissioner shall be re-elected, except by his own consent, during the four years next after his going out of office.

Chairman and
Secretary-
Treasurer.

XVI. And be it enacted, That the School Commissioners shall meet on the first Monday after their appointment or after notice of their election, for the purpose of choosing a Chairman and a Secretary-Treasurer, which latter shall give sufficient security to the Commissioners, himself for one half and two sureties each for one quarter of the sum arising from the local and general School fund, and place at their disposal for the support of the Schools of their locality; and in case of the absence, whether permanent or temporary, of the said Chairman, the assembled School Commissioners shall name one of themselves as Chairman for the time being, who shall then be vested with the same powers and privileges as the ordinary Chairman.

Temporary
Chairman.

Decisions.

XVII. And be it enacted, That at the meetings of the School Commissioners all questions shall be decided by the majority of votes; and that when the votes upon any question proposed are found to be equal on both sides, without the vote of the Chairman, then and in such case only the Chairman shall be entitled to give his vote, as a casting vote, but in no other case shall the Chairman be entitled to vote.

Chairman.

School Dis-
tricts.

XVIII. And be it enacted, That the Commissioners shall divide the Municipality into School Districts in all places where this shall not have been already done, and shall designate them by the numbers one, two, &c., and the limits assigned by them to each District shall be entered in the Registers of their proceedings; they may also at their discretion alter the limits of Districts already existing, and erect new ones from time to time, so as to suit the wants of the population and local circumstances.

Alteration of
limits.

Requisite
number of
children.

XIX. And be it enacted, That no School District shall contain less than twenty children between the ages of five and sixteen years; except that the Commissioners may allow one School District in each Municipality to contain less than the aforesaid number of children.

XX.

XX. And be it enacted, That the School Commissioners shall take care that there be a School in each School District, and may, when they shall deem it expedient, unite two or more Districts, and again separate them, and shall give notice to the Superintendent of Schools of their having done so.

A School to be
in each Dis-
trict.
United Dis-
tricts.

XXI. And be it enacted, That it shall be the duty of the School Commissioners in each Municipality:

Duties.

Firstly. To take possession of lands and School Houses which may have been acquired, given to, or erected by the School Trustees or Commissioners, and to which the Province may have contributed in virtue of any former Act, or by the Royal Institution (which Institution is hereby authorized to surrender the same), under any Act for the encouragement or promotion of Education, and in case of opposition, to give notice thereof to the Superintendent of Schools, who shall advise them as to the means of removing or overcoming such opposition.

As to present
School proper-
ty.

Secondly. To acquire and hold for the Corporation, by any [title whatsoever, all real or personal property, monies or income for the purposes of Education, until the power hereby given shall be taken away or modified by Law, and to apply the same according to the instructions of the donors.

School proper-
ty.

Thirdly. To do whatever it may be expedient to do with regard to building, repairing, keeping in order or renewing all School Houses, lands, fences and moveable property which shall be held by them, or to hire temporarily or accept the gratuitous use of Houses and other buildings for the purpose of keeping Schools therein: Provided that no rate shall be levied for the building of a Superior or Model School to exceed the sum of one hundred and fifty pounds, nor for a Common School to exceed the sum of seventy-five pounds; and all accounts relative to the objects aforesaid shall be transmitted annually to the Superintendent of Schools.

Keeping such
property in
order.

Proviso.

Accounts.

Fourthly. To appoint and engage from time to time School-masters and School-mistresses duly qualified to teach in the Schools under their control, and to remove them on account of incapacity, neglecting faithfully to perform their duties, insubordination, misconduct or immorality, after mature deliberation at a meeting of Commissioners called for this purpose.

Engaging
Teachers.

Fifthly. To regulate the course of study to be followed in each School, to provide that no other books be used in the Schools under their jurisdiction but those approved and recommended by the Board of Examiners hereinafter established, and to establish general rules for the management of the Schools, and to communicate them in writing to the respective Teachers; to fix the time of the annual public examination, and to attend at the same: Provided that the Curé, Priest, or officiating Minister, shall have the exclusive right of selecting the books having reference to religion or morals, for the use of the Schools for children of his own religious faith.

Regulating the
courses of in-
struction.

Sixthly. To hear and decide every dispute which may arise relating to the public Schools in their Municipality, between the parents or children and the Teachers, and others of like nature.

Deciding dis-
putes.

Visiting the
Schools and
reporting.

Seventhly. To name two or more from among themselves to visit each public School in the Municipality, at least once in six months, and report to the Corporation of which they are members, the state of the School, and whether the rules and regulations of the Commissioners are strictly observed, also the progress of the scholars, the character and capacity of the Teachers, and every other matter relating to the management of the Schools.

Management,
discipline, &c.

Eighthly. To comply as regards the accounts and register to be kept by the Secretary-Treasurer, with all instructions, whether special or general, which may from time to time be given them by the Superintendent of Schools, to whom they shall report their proceedings yearly, before the first day of July.

To keep Re-
gisters and Ac-
counts.

Ninthly. To keep and cause to be kept registers of their proceedings, signed for each sitting by the Chairman and Secretary; and also correct accounts of their receipts and expenditure, with reference to the Schools in each District under their control, mentioning specially what relates to each School; and such accounts shall be open to all persons, contributors to the support of the Schools, at all seasonable hours.

To levy by
assessment a
sum equal to
that allowed
out of the
Common
School Fund.

Tenthly. To cause to be levied by assessment and rate, in the manner hereinafter provided by this Act, in each Municipality, a sum equal to that allowed out of the Common School Fund for each Municipality, and to report their proceedings in this respect to the Superintendent; and to enable the School Commissioners to receive from the Superintendent of Education, their share of the Common School Fund, they shall furnish him with a declaration from the Secretary-Treasurer, that he has actually and *bona fide* received, or that he has placed in the hands of the School Commissioners for the purposes of this Act, a sum equal to the said share accruing to such Commissioners.

Superior or
Model Schools.

Eleventhly. Out of the monies arising from the School Fund, or from assessments imposed to raise a like sum in the Municipalities, or from any other source, not specially appropriated by disposition of the donors or vendors or otherwise, they may, if they think proper, allow a sum not exceeding twenty pounds yearly for the support of any Superior School or Model School, at the most thickly settled place in the Municipality, over and above the share which would otherwise come to such School, and the remainder or whole of the said monies, if there is no Model School, shall be distributed in equal shares among the School Districts, the Model School being counted alone as one.

Fixing rates to
be paid by pa-
rents for their
children.

Twelfthly. They shall fix the Fees per month to be paid during the eight School months for each child of age to attend School, by each father or mother of a family, tutor or curator, to the Secretary-Treasurer above and over the rate levied, and for the use of the School District (*arrondissement*) paying the same; such fees not to exceed in any case two shillings per month, and to be diminished at the discretion of the Commissioners, according to the means of the parents, age of the children, and course of instruction, but not to be less than three pence per month; the Commissioners nevertheless may ask higher monthly fees, in Model Schools, and for the whole time the same may be in active operation.

Thirteenthly.

Thirteenthly. They may wholly or in part exempt indigent persons, lunatics or idiots from paying such fees, and shall fix the times of payment.

Indigent persons.

Fourteenthly. They shall cause any party neglecting or refusing to pay his portion of any School-rate, to be prosecuted before any Justice of the Peace in the Municipality, or if there be no Justice of the Peace in the Municipality, then before the Commissioners' Court for the trial of Small Causes nearest to the place of their sittings and having jurisdiction in the Municipality; and all Justices of the Peace or Commissioners' Courts are hereby authorized and required to hear and adjudge upon such prosecution in a summary manner, and to cause the sum for which judgment shall have been given to be levied by the seizure and sale of the goods and chattels of the defendant, under a Warrant to be granted by such Justice of the Peace or Commissioner of Small Causes.

To direct prosecutions.

Fifteenthly. They may associate with themselves, permanently, or for a time only, Managers to aid them in matters connected with the administration of the School Houses, the erection and repair, warming and cleaning thereof, and the keeping in good order the property, moveable and immoveable, belonging to the Schools, and other like matters.

Managers.

XXII. And be it enacted, That if in any School District there shall be no School in operation, the School Commissioners shall deposit the money to which such District would be entitled in some Savings or Chartered Bank at interest, where, with the consent of the inhabitants of such District, they shall allow it to accumulate during a term which shall not exceed four years, to be thereafter by them used either in the purchase of ground for or in building a School House, or towards other Educational purposes in or for such School District.

Deposit of monies.

Application of the same.

XXIII. And be it enacted, That the School Commissioners in each Municipality shall be a Corporation under the name of *The School Commissioners for the Municipality of* , in the County of ; shall have perpetual succession and a common seal, if they think proper to have one; may sue and be sued, and shall, generally, have the same powers which any other body politic or corporate has, or ought to have with regard to the purposes for which it is instituted; but they shall not at any time hold real property to the value of more than five hundred pounds yearly in the Cities and Municipalities of Quebec or Montreal, or of three hundred pounds yearly value in any other Municipalities: Provided, nevertheless, that the Chairman of the School Commissioners shall not engage in any suit at Law, as plaintiff, without a special authorization from the Commissioners, duly entered in the Register after deliberation, and that all and every action may be brought either by the said President or by the Secretary Treasurer in the name of the Corporation, at the discretion of the Board.

School Commissioners to be a Corporation.

Their powers.

Limitation.

Proviso.

XXIV. And be it enacted, That no such Corporation shall alienate any portion of the property held by it without the express authority of the Superintendent of Schools; and no such Corporation shall cease by reason of the want of School Commissioners in any Municipality at any time, but in such case the powers of the Corporation, as regards the possession of any property real or personal, shall become vested in the Superintendent of Schools, and in his default in the Governor

Proviso: As to alienation of School property.

Corporation may be in abeyance.

of

School property vested in the Corporation.

of the Province in trust, until it shall be otherwise provided by law; and all Lands, School Houses or other property, real or personal, belonging to Common Schools in any part of the Province, formerly Lower Canada, under any law or by any title whatsoever, is hereby vested in the Corporation of the School Commissioners respectively, of the Municipality in which such property may be situate.

Fabrique Schools.

XXV. And be it enacted, That the *Fabrique* of any Parish, and the School Commissioners thereof, may, by mutual agreement in due form made, unite for one or more years the *Fabrique* Schools in operation, with any of the Schools to be kept under this Act; and any *Fabrique* contributing not less than twelve pounds ten shillings by the year, towards the support of any School under the management of School Commissioners, shall thereby acquire a right to the *Curé* and Church-warden in office to be Commissioners, if they were not so before; but no *Fabrique* shall so unite its School to those managed by Commissioners of another faith, except under an express and formal agreement with the School Commissioners or Trustees of such other faith.

Proviso.

Dissentients.

XXVI. And be it enacted, That when in any Municipality, the regulations and arrangements made by the School Commissioners for the conduct of any School, shall not be agreeable to any number whatever of the inhabitants professing a religious faith different from that of the majority of the inhabitants of such Municipality, the inhabitants so dissentient may collectively signify such dissent in writing to the Chairman of the said Commissioners, and give in the names of three Trustees, chosen by them for the purposes of this Act; and such Trustees shall have the same powers and be subject to the same duties as School Commissioners, but for the management of those Schools only which shall be under their control; and such dissentient inhabitants may, by the intervention of such Trustees, establish in the manner provided with regard to other Schools, one or more Schools, which shall be subject to the same provisions, duties and supervision, and they shall be entitled to receive from the Superintendent or from the School Commissioners, such sum out of the general or local School Fund as shall be proportionate to the dissentient population they represent: Provided always, that whenever the majority of the children attending any School now in operation, and the School House, shall belong to or be occupied by such dissentients, the said School House shall continue to be occupied by them so long as the number of children taught in such School shall amount to the number required by this Act to form a School District, and the entire amount of monies raised by assessment on such dissentients shall be paid to the Trustees of such School, together with a due proportion of the building fund.

Trustees.

May establish one or more Schools.

Proviso.

On what condition a School shall be entitled to an allowance out of the School Fund.

XXVII. And be it enacted, That to entitle any School to its allowance out of the general or Local School Fund, it shall be requisite and sufficient that such School has been under the management of School Commissioners or Trustees appointed in the manner provided by the next preceding section; that it has been in actual operation during at least eight calendar months; that it has been attended by at least fifteen children (periods of epidemic or contagious diseases excepted); that the returns have been certified to the School Commissioners or Trustees by the Master, Mistress or Teacher, and at least two of the Commissioners or Trustees; that a public examination of the Schools has taken place; that a report signed

signed by the majority of the School Commissioners or Trustees, and by the Master has been transmitted to the Superintendent of Schools, according to the form prescribed by him for that purpose, every six months, that is to say, before the first day of July, and the first day of January, in each year; and finally, that a sum equal to the allowance made by the Legislature for the Municipality, has been raised as hereinbefore provided.

XXVIII. And be it enacted, That if any School Commissioner or Trustee or other person, shall make any false certificate or return, by means of which he may have fraudulently obtained or sought fraudulently to obtain money from the public School Fund, such Commissioner, Trustee or other person shall not only restore the money so obtained, but shall also incur a penalty not exceeding ten pounds, currency, nor less than two pounds, ten shillings, which shall go to the local School fund, and which shall be recoverable at the suit of any person having an interest in the right administration of the Common Schools, on the oath of one credible witness, and before any Justice of the Peace; and if such penalty be not paid within ten days after judgment, it shall be levied, with the costs of suit and of sale, by seizure and sale of the goods and chattels of the defendant under the warrant of such Justice of the Peace, and in default of sufficient goods and chattels, the defendant may be committed to the common gaol, and detained therein one day for each three shillings of the amount of the fine and costs, or of the balance which may be due.

Penalty on persons using false certificates, &c.

How levied.

XXIX. And be it enacted, That the Trustees of dissentient minorities shall also be elected for three years, except that at the end of each of the two first years one of the Trustees shall retire and be replaced or re-elected by such dissentients; children from other School Districts, of the same faith as the dissentients for whom the School was established, may attend the same whenever such dissentients shall not be sufficiently numerous in any District to support a School alone: Provided that the individuals of the dissentient minority shall not be elected nor serve as School Commissioners, nor vote at the election of the School Commissioners; and that in like manner the individuals of the majority shall not be elected nor serve as School Trustees, nor vote at their election.

Trustees of dissentient Schools.

Proviso.

XXX. And be it enacted, That the School Commissioners may, if they deem it expedient, establish in the Municipality a Girls' School distinct from that for Boys, and such Girls' School shall be deemed to form a School District; if any religious community shall have already established a Girls' School for elementary education, such community may place its School, from year to year, or as may be agreed upon, under the management of the Commissioners, and it shall then be considered as entitled to all the advantages hereby granted to Common Schools.

Girls' School.

XXXI. And be it enacted, That the Secretary-Treasurer shall receive a sum not exceeding two and a half per cent. on all monies by him received, but this allowance shall cover all his contingent expenses, except the purchase of the book used as a Register, the price of which shall be paid out of the monies in his hands.

Allowance to the Secretary-Treasurer.

XXXII. And be it enacted, That the Schools established under this Act or any other Act, in each Municipality, whether in town or country, shall be visited at least

Common Schools to be visited.

least once in every year by one of the Visitors hereinafter mentioned, and oftener, if they deem it requisite ; they shall be entitled to have communication of the regulations and other documents relative to each School, and of all other information concerning it.

Visitors.

XXXIII. And be it enacted, That the Visitors for each Municipality shall be :

First. The Resident Clergymen, of whatever denomination.

Secondly. The Judges of the Court of Queen's Bench, and of the Circuit Courts.

Thirdly. The Members of the Legislature.

Fourthly. The Justices of the Peace.

Fifthly. The Mayor or the Warden of the Municipality.

Sixthly. The Colonels, Lieutenant Colonels and Majors, and the Senior Captain of Militia resident in the locality.

Ecclesiastics
of one persua-
sion not to vi-
sit Schools of
another.

The Superintendent of Schools shall be *ex officio* Visitor General of all Public Schools, and as such may take cognizance of contestations arising between the School Commissioners and School Masters, and give a final decision ; and no Priest, Minister or Ecclesiastic shall be entitled to visit any School belonging to any inhabitants not of his own persuasion, except with the consent of the Commissioners or Trustees of such School.

Superinten-
dent of Schools
for Lower Ca-
nada to be ap-
pointed.

XXXIV. And be it enacted, That the Governor may, from time to time, appoint by Letters Patent under the Great Seal of the Province, a fit and proper person to be Superintendent of Schools for Lower Canada, and to hold his office during pleasure ; the said Superintendent shall receive five hundred pounds, currency, salary, per annum, and shall be allowed one hundred and seventy-five pounds per annum for a Secretary, and sixty pounds for a Clerk, and the contingent expenses of his office to be by him accounted for according to the terms of this Act ; and the said Superintendent shall give security to Her Majesty, Her Heirs or Successors, to the satisfaction of the Governor in Council, to the amount of two thousand pounds, currency.

His duties.

XXXV. And be it enacted, That it shall be the duty of the Superintendent of Schools :

Distribution of
monies.

First. To receive from the Receiver General all sums of money appropriated for the purposes of this Act, and to distribute the same among the School Commissioners of the respective Municipalities, according to law, and in proportion to the population of the same, as ascertained by the then last Census.

Preparing
Forms.

Secondly. To prepare and cause to be printed and distributed all necessary Forms.

Thirdly.

Thirdly. To prepare and cause to be printed recommendations and advice on the management of Schools, as well for the School Commissioners as for the Secretary-Treasurers, Trustees, School-masters and School-mistresses.

To prepare recommendations, &c.

Fourthly. To keep correct books and distinct Schedules of all the matters subjected to his superintendence and control, so that all requisite information may be clearly and promptly obtained by the Government, the Legislature, or the School Visitors.

To keep books.

Fifthly. To examine and control the accounts of all parties, corporations or associations accountable for any public monies appropriated and distributed under the authority of this Act, and to report whether the said monies are *bonâ fide* applied for the purposes for which they were granted.

To examine Accounts.

Sixthly. To lay annually before the three branches of the Legislature, a detailed report of the actual state of education in Lower Canada, tables of Schools, number of children attending them, and other like matters.

Annual Report.

XXXVI. And be it enacted, That the assessment mentioned in this Act, shall be laid equally accordingly to valuation, upon all rateable real property in the Municipality, and shall be payable by and recoverable from the owner, occupant or possessor of the property liable to be rated, and shall, if not paid, be a special charge bearing *hypothèque* and not requiring registration to preserve it on all immoveable property ; any law or usage to the contrary notwithstanding.

The rate to be laid equally on all property.

To bear *hypothèque* if not paid.

XXXVII. And be it enacted, That the School Commissioners shall cause the assessment required for raising the sum equal to that which they shall receive or ought to receive from the Common School Fund, to be equally rated upon all the immoveable property situate within the extent of their jurisdiction, in proportion to the value of such property, and that they shall, at the same time and in the same manner, cause an additional sum not exceeding fifteen per cent. upon the former, to be raised for the purpose of making good any deficiency which may arise in the collection of the assessment, and to cover the expenses of collection : Provided, that unconceded lands in Seigniories shall be free from assessment under this Act, but that all Seigniors shall pay, on account of their lucrative rights, one-fortieth part of the sum assessed in the Municipality or Municipalities, or portions of Municipalities of which they are Seigniors, in proportion to their Seigniori in the same : Provided also, that all buildings set apart for purposes of education, or of religious worship, Parsonage Houses, and all charitable Institutions or Hospitals incorporated by Act of Parliament, and the ground or land on which such buildings are or shall be erected, and also all burial grounds, shall be exempt from all rates imposed for the purposes of this Act.

Immoveable property to be equally rated.

Seigniories.

Proviso as to certain public buildings, &c.

XXXVIII. And be it enacted, That in all places where a valuation of property shall have been made by order of the Municipal authorities, under the Act of the last Session, intituled, *An Act for repealing certain Ordinances therein mentioned, and to make better disposition for the establishment of the Local Municipal Authorities in Lower Canada*, or under the authority of any other subsequent Act, such valuation shall serve as the basis of the rates which shall be made under the authority

Basis of valuation.

Penalty on
Commission-
ers failing to
make such
valuation.

authority of this Act, a copy of which valuation the Secretary-Treasurer of the Municipal Council shall, on demand, furnish to the Corporation of School Commissioners; but if no such valuation shall have been made as above mentioned, the School Commissioners are hereby authorized to cause the same to be made by three fit and proper persons; and if the said Commissioners refuse or neglect to cause such valuation to be made within the two months following the receipt of this Act, (of which they are required to acknowledge the receipt, as soon as received, to the Superintendent of Schools,) such Commissioners shall be liable to a fine of not less than two pounds, ten shillings, or more than five pounds, currency, (to be recovered in the same manner and form, and before the same tribunals, as provided by this Act for the recovery of School-rates and monthly dues,) and the Governor shall name fit and proper persons to make the proper valuation with as little delay as possible, which said valuation, made either by order of the Commissioners or by order of the Governor, shall be certified by the persons having made the same, before a Justice of the Peace, which said Justice of the Peace shall transmit, within eight days, a copy of the certificate to the School Commissioners for the Municipality, and to the Provincial Secretary.

School-rates.

Receipts in
Produce.
Notice for in-
spection.

Provisions as to
rates for the
present year.

Rates always
to be imposed
for the then
next year.

XXXIX. And be it enacted, That each School rate shall be fixed and laid between the first day of May and the first day of July, and shall be paid in each year at any time on demand, provided public notice be given at least thirty days before enforcing payment of the same; and the Commissioners and Secretary-Treasurer may, in their discretion, receive the amount of such rates and of the monthly payments for the children, in produce at prices to be fixed by them; and notice given in the manner hereinbefore prescribed with regard to the holding of general meetings, that the roll of the rates so fixed lies for inspection in the hands of the Secretary-Treasurer, shall be sufficient publication and notification thereof; and it shall lie in his hands for inspection at least thirty days after notice, during which time it may be amended by the Municipal Authority, after which it shall be in full force, and shall be conclusive evidence as to the rate of School-rates payable into the office of the Secretary-Treasurer by any party or on any property subject thereto: Provided that any School-rate which may have been imposed in the course of the present scholastic year, agreeably to the true sense and meaning of this Act, shall be held legal and valid for the purposes of this Act, at whatever time it may have been imposed: Provided also, that for the scholastic year which will commence on the first day of July next, the rates may be imposed at any time during the months of July, August, September and October of the present year, if they have not been imposed by the present Commissioners: Provided always, that the present School Commissioners may, between the passing of this Act and the first day of October of the present year, validly impose the rates as well for the present year as for the next, and also for any future year, and it shall always be the duty of such Commissioners to impose the rates for the then next year.

Provisions as
to the Cities
of Quebec and
Montreal.

Powers of
School Officers

XL. And be it enacted, That in each of the Cities of Quebec and Montreal the provisions of this Act, with regard to the establishment of Common Schools in each Municipality, shall have effect and be applied according to the true intent and meaning of this Act, except in so far as it may be otherwise herein provided or enacted; and all persons appointed or called upon to carry this Act into effect in the said Cities, shall have the same powers as the corresponding functionaries in

in the Municipalities by whatever name they may be designated, and shall be subject to the same obligations and penalties.

in the said
Cities.

XLII. And be it enacted, That for all purposes relative to the distribution and apportionment of School monies, and for all other purposes of this Act where it shall not be repugnant to the other provisions thereof, each of the Cities of Quebec and Montreal shall be considered as one Municipality; and it shall not be necessary to divide them into School Districts, but each School established by the said Commissioners or put under their control by virtue and in accordance with this Act, shall be considered as a District and may be attended by children from any part of the City.

Each to be
deemed one
Municipality.

Division into
Districts not
necessary.

XLIII. And be it enacted, That in Quebec and Montreal the Corporation shall appoint twelve School Commissioners (if they have not already been named under the authority of the Act passed in the last Session of the Provincial Parliament concerning Elementary Education), six of whom shall be Roman Catholics and six Protestants; and such Commissioners shall form two separate and distinct Corporations, the one for the Roman Catholics and the other for the Protestants; and one half of each of the said Corporations shall be renewed annually by the said Corporation: Provided, that in case the Corporation of the City of Quebec or that of Montreal, shall refuse or neglect to nominate such Commissioners or to renew them at the time prescribed, that is to say, in the month of July in each year, the Superintendent of Schools shall appoint them *ex-officio*, with the approval of the Governor in Council.

Appointment
of Commis-
sioners there-
in.

Proviso:
Superinten-
dent to appoint
Commission-
ers if the Cor-
poration do
not.

XLIV. And be it enacted, That in the said Cities no rate shall be levied for the Schools, but the Treasurer of each City shall pay out of the funds thereof to the said Boards of Commissioners, and in proportion to the population of the religious persuasion represented by them, a sum equal to that coming to such City out of the Common School Fund, to be employed by them for the purposes of this Act; and if such payment be refused, the School Commissioners or their Secretary may apply by petition to the Court of Queen's Bench sitting in Superior Term, who, upon proof of the service of such Petition upon the Treasurer, shall take cognizance of the matter and shall determine the same in a summary manner, and may, if right shall require it, compel payment by all legal means and process.

School Funds.

Payment, how
enforced if re-
fused.

XLV. And whereas the Cities of Quebec and Montreal possess Educational Institutions which do not and cannot exist in the Country parts: Be it enacted, That the said City of Montreal shall be entitled to receive out of the Common School Fund only one fourth, and the City of Quebec two thirds of the sums they would have been respectively entitled to according to their population.

Proportion of
public monies
to be allowed
for each City:

XLVI. And be it enacted, That the School Commissioners for Quebec and Montreal shall, in their intercourse with the Superintendent of Education, be guided by the same rules and regulations as other School Commissioners.

City School
Commission-
ers.

XLVII. And be it enacted, That any sum of money whatever arising from the general or local School Fund, from whatever source derived, which shall not have been employed or paid by the School Commissioners, Trustees or Secretary-Treasurer

Deposit of
School monies
belonging to
any locality

and not immediately required.
Proviso.

Treasurer during the year in which it shall have been received, shall be by them or any one of them deposited or placed out at interest, to be employed in forming and creating revenue for the Corporation : Provided nevertheless, that this provision shall not be construed to extend to the deposit directed by this Act to be made of the share belonging to any School District, in which there shall not then be any School in operation.

Mode of paying public monies out of the Common School Fund.

XLVII. And be it enacted, That the sums annually paid out of the Common School Fund, shall be paid by the Receiver General, on the Warrant of the Governor, to the Superintendent of Schools, from time to time, as they can be apportioned and distributed by that Officer, and the Superintendent shall pay their respective shares to the several School Commissioners in two semi-annual payments, and the School Commissioners shall have power to direct the payment out of the general or local School Fund in their hands, of such contingent expenses as may not have been specially provided for by this Act ; and the due application of all public monies shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct ; and accounts of the yearly expenditure thereof shall be laid before the Legislature at the then next Session thereof.

Accounts to Her Majesty.

And to the Legislature.

Indemnity for payments made out of the Common School Fund before the passing of this Act.

XLVIII. And whereas it is expedient to indemnify all officers and persons who, before the passing of this Act, have, under orders of the Governor in Council, acted in the apportionment, distribution and application of monies out of the Common School Fund, in any manner which, though consistent with the spirit and intention of the laws then in force, may not have been strictly in accordance with the letter thereof : Be it enacted, That all officers or persons in any manner concerned in the making of any Order in Council made before the passing of this Act concerning the distribution, apportionment, payment or application of any such monies as aforesaid, or in distributing, apportioning, paying or applying such monies under the said Orders in Council or any of them, shall be and are hereby indemnified and held harmless for all acts so done or advised by them ; any thing in any Act or Law to the contrary notwithstanding ; and the distribution, apportionment, payment and application so made as aforesaid, shall be held to have been legally and validly made and performed : Provided always, that all such officers and persons entrusted with the distribution and application of any such monies in the various Districts, Counties and other subdivisions of the Province, shall duly account for the same.

Provision for accounting.

Balance how to be applied.

XLIX. And be it enacted, That the balance remaining unexpended or unclaimed out of the proportion of the Common School Fund belonging to Lower Canada, shall be appropriated by the Superintendent of Schools under the authority of the Governor in Council, in aiding to finish School Houses actually commenced, or to build new ones, or to make extensive repairs to old ones, in such manner as he shall deem most conducive to the advancement of Elementary Education.

Boards of Examiners appointed in Quebec and Montreal.

L. And be it enacted, That there shall be in each of the Cities of Quebec and Montreal, a Board of Examiners composed of fourteen persons chosen in as fair and equitable a manner as possible from among the different religious denominations,
the

the members of which Board shall be appointed by the Governor in Council, through the Superintendent of Schools, and of whom one half shall consist of Roman Catholics, and one half of Protestants, and who shall compose a Board of Examiners, to examine Teachers and to deliver or refuse to each, as the case may require, a license or certificate of qualification, after due examination; and the said Board shall be divided into two divisions, one of which shall be composed of seven Roman Catholics, and the other of seven Protestants, each of which division shall separately perform the duties hereinafter imposed upon them, that is to say :

How compos-
ed.

Their duties

Firstly. To meet at the Court House in either City, as the case may be, at ten o'clock, A. M., on the twentieth day after their nomination, (and this enactment shall be for each member of the said Board, a sufficient notification to that effect,) to choose a President, Vice-President and Secretary : Provided nevertheless, that if the said twentieth day after their nomination be a Sunday or holiday, (*fête d'obligation*,) they shall meet on the day following, not being a Sunday or holiday.

To meet at a
certain time
and place.

Secondly. To meet once in three months (on the application of one or more Teachers made in writing to the Secretary of the Board at least fifteen days beforehand,) that is to say, on the first Tuesday in March, June, September and December, after sufficient public notice to that effect, and whenever there shall be any application.

Subsequent
meeting on ap-
plication of
Teachers.

Thirdly. To admit to examination those candidates only who shall be each provided with a certificate of good moral character signed by the *Curé* or Minister of his own faith, and by at least three School Commissioners or Trustees of the locality in which he shall have resided for the last six months, and also with a certificate of his age, which must be at least eighteen years.

Whom only
they shall ex-
amine.

Fourthly. To return to the bearer the said certificate, after having entered an exact copy thereof on their minute of proceedings, if the candidate shall have passed a satisfactory examination.

To return the
certificate.

Fifthly. To deliver a certificate or *diploma* of qualification as a Teacher to each candidate found qualified, signed by the President or Vice-President and the Secretary, bearing the seal of office, dated, and distinctly specifying the particular kind of instruction to which the candidate intends devoting himself; whether he can teach English and French, and if not, which of these two languages; as also his age, his latest residence, and the religious denomination to which he professes to belong; mentioning also that the certificates of age and good moral character required by this Act have been produced to the Board; mentioning also the names of the persons signing the said certificates, and that a copy thereof has been taken; and the said Secretary or his deputies may demand from each candidate obtaining a certificate or *diploma* of qualification, for fees and office charges, the sum of five shillings, currency, and no more.

To deliver cer-
tificates of
qualification to
Candidates
found quali-
fied.

Fees.

Sixthly. To keep a correct list of candidates admitted to the right of teaching.

To keep Lists.

Seventhly. To give notice to the Superintendent of Schools of the admission of each candidate to the right of teaching, within fifteen days after such admission.

To notify Su-
perintendent.

Eighthly.

To divide Teachers into classes.

Eighthly. To divide the Teachers into three classes, namely : those of the Schools purely elementary ; those of Model Schools, and those of the educational establishments called Academies.

To enter names of Teachers.

Ninthly. To enter the names of each Teacher admitted, as well as the class to which he belongs.

Qualifications required of Teachers.

Tenthly. To require, in the course of the examination, proof of the following qualifications, namely : For the Teachers of Elementary Schools, such acquirements as will enable them to teach with success, Reading, Writing, the Elements of Grammar and of Geography, and Arithmetic as far as the Rule of Three, inclusively ; For the Teachers of Model Schools, in addition to the foregoing, the acquirements requisite to enable them to teach Grammar, the Analysis of the parts of speech, Arithmetic in all its branches, Book-keeping, Geography, the use of the Globes, Linear Drawing, the elements of Mensuration, and Composition ; For the Teachers of Academies, besides the qualifications required for the above-mentioned two classes of Teachers, all the branches of a classical education, inasmuch as they are destined to prepare their scholars for the same : Provided always, that until the first day of July of the year one thousand eight hundred and fifty-six, Teachers may, if they prefer it, undergo an examination before the School Commissioners of the respective localities where they are to teach ; but that after the first Monday in July, one thousand eight hundred and fifty-six, all Teachers acting as such under this Act, or under any special Act passed for the encouragement of Education, shall be required to undergo an examination before one of the said Boards of Examiners, and to be each provided with a certificate of qualification as above mentioned ; and that after the said day, the School Commissioners, and all persons entrusted with the management of Schools, shall be required to employ as Teachers such persons only as shall be so provided with a certificate of qualification given by one of the Boards of Examiners as above mentioned, on pain of losing their share of the grants made for the encouragement of education : Provided nevertheless, that every Priest, Minister, Ecclesiastic, or person forming part of a religious community instituted for educational purposes, and every person of the female sex, shall be in every case exempt from undergoing an examination before any of the said Boards ; and provided also, that neither the possession of a certificate of examination before one of the said Boards, nor any exemption from examination, shall oblige the School Commissioners or Trustees to accept a Teacher who does not suit them.

Proviso as to Teachers examined before 1st July, 1856.

Priests, members of Religious Communities and females need not be examined.
Proviso.

Registers to be kept.
Duties of the Secretary.

Eleventhly. To keep or cause to be kept a Register of their proceedings, signed (for each meeting) by the President or Vice President and the Secretary, whose duty it shall be to keep the Register and to make the list of Teachers admitted to teach, the entry in the Register of their certificate of age, morality, character and qualification, the entry of all the proceedings of the Board in the minutes of their deliberations, and also to prepare, fill up and address the certificates of qualification, and to do all other writing requisite.

To have a seal.

Twelfthly. To have a particular seal, and to make use of that furnished them by the Superintendent of Schools, as well as the forms of certificates of qualification ; and every person entitled to act as School Visitor shall have the right of being

being present at examinations made by any of the Boards of Examiners, and of interrogating the Teachers who shall offer themselves for examination, and also of giving his opinion.

Rights of Visitors at examinations.

LI. And be it enacted, That no person shall be capable of being elected or appointed a School Commissioner, or named an Assessor under this Act, unless he shall be seized or possessed, to his own use, of real or personal estate, or both within this Province, of the value of two hundred and fifty pounds, currency, after payment or deduction of his just debts.

Qualification of School Commissioners.

LII. And be it enacted, That every person duly called upon to accept any office or perform any functions under this Act, who shall refuse to accept or neglect to perform the same, or shall in any way wilfully contravene the provisions of this Act, shall thereby for each such offence, whether of omission or commission, incur a penalty of not less than one pound five shillings, nor more than two pounds ten shillings, according to the gravity of the offence, in the discretion of the Court or authority having cognizance thereof; and any Justice of the Peace residing within the locality or county, or the nearest Court of Commissioners for the Trial of Small Causes shall have jurisdiction with regard to such offence, and may, after judgment, cause the penalty to be levied under Warrant, by the seizure and sale of the goods and chattels of the offender; and the amount of all penalties so levied shall be paid into the hands of the Secretary-Treasurer of the Corporation of the School Commissioners of the locality in which the offence shall have been committed, and shall make part of the Local School Fund; and all persons entrusted in any manner with carrying this Act into effect, or qualified to vote at the election of School Commissioners or Trustees, shall be competent to prosecute for the recovery of such penalties.

Penalty on persons refusing to accept office.

How such penalty may be enforced.

Application of penalties.

Who may prosecute.

LIII. And be it enacted, That the *quorum* of any Corporation, Board, or Body constituted by this Act shall be the absolute majority of all the Members thereof; and any majority of the Members present at any meeting regularly held, at which there shall be a *quorum*, may validly exercise all the powers of the Corporation.

Quorum.

Powers of majority.

LIV. And be it enacted, That nothing herein contained shall affect the rights of Her Majesty, Her Heirs or Successors, or of any Body Politic or Corporate, or of any person whomsoever, except in so far as may be herein specially provided and enacted.

Saving of rights not specially affected, &c.

LV. And be it enacted, That the words "Lower Canada," wheresoever they occur in this Act, shall mean all that part of this Province which formerly constituted the Province of Lower Canada; the word "Governor" shall mean the Governor, Lieutenant-Governor, or person administering the Government of this Province, and the words "Governor in Council" shall mean the Governor, Lieutenant-Governor, or person administering the Government of this Province, acting by and with the advice and consent of the Executive Council thereof; the word "Assessment" shall mean the determining of the total sum to be raised by a rate; the word "Rate" shall mean the proportionate sum to be paid by each party under any assessment; and all words importing the singular number or the masculine gender only, shall include several persons, matters and things of one kind,

Interpretation clause.
Lower Canada.
Governor.

Governor in Council.

Assessment.
Rate.

Singular number or masculine gender.

General rule. kind, as well as one person, matter or thing, and persons of either sex, unless there be something in the subject or context inconsistent with or repugnant to such construction, and generally all words, expressions and provisions herein occurring, shall receive such large, beneficial and liberal construction as will best insure the attainment of the objects of this Act, and the enforcement of its several enactments according to their true intent, meaning and spirit.

Present School officers. LVI. And be it enacted, That all School Commissioners, and other persons having any authority or power whatsoever over or with regard to Common Schools, by virtue of the enactments hereby repealed, shall continue in office, and shall and may act according to law and the true intent and meaning of this Act, until they shall be replaced, as if they had been elected, appointed or authorized under and by virtue of this Act itself.

Act of Canada 4 & 5 Vic., cap 18, repealed in part as to Lower Canada. LVII. And be it enacted, That the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to repeal certain Acts therein mentioned, and to make further provision for the establishment and maintenance of Common Schools throughout the Province*, shall remain repealed so far as relates to Lower Canada, in and with regard to which it shall have no force or effect, save and except always the first, second and third sections of the said Act, and so much of the twenty-first section as provides for the due accounting for the application of the monies appropriated by the second and third sections aforesaid, and shall not revive even if this Act shall cease to be in force ; and that the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to make better provision for Elementary Instruction in Lower Canada*, (in so far as may be consistent with the next preceding section of this Act,) shall be repealed from and after the time when this Act shall come into force.

Distribution of printed copies of Act. LVIII. And be it enacted, That it shall be the duty of the Provincial Secretary forthwith after the passing of this Act, to cause to be printed and distributed in the several Municipalities and localities of Lower Canada a sufficient number of copies of the same, without waiting for the usual and ordinary printing and distribution of other Acts of this Session.

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Law Printer to the Queen's Most Excellent Majesty



A N N O N O N O

VICTORIÆ REGINÆ.

C A P. XXVIII.

An Act to repeal certain Laws therein mentioned, to provide for the better defence of this Province, and to regulate the Militia thereof.

[9th June, 1846.]

WHEREAS it is expedient to amend and consolidate the Laws of this Province relating to the Militia thereof, and to the quartering and billeting of Her Majesty's Troops and of the said Militia: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act of the Legislature of Upper Canada, passed in the forty-ninth year of the Reign of King George the Third, and intituled, *An Act for quartering and billeting His Majesty's Troops and the Militia of this Province*; and the Act of the said Legislature, passed in the second year of Her Majesty's Reign, and intituled, *An Act to repeal, alter and amend the Militia Laws of this Province*; and the Ordinance of the Legislature of the Province of Quebec, passed in the twenty-seventh year of the Reign of King George the Third, and intituled, *An Ordinance for better regulating the Militia of this Province, and rendering it of more general utility towards the preservation and security thereof*; and the Ordinance of the said Legislature, passed in the same year of the same Reign, and intituled, *An Ordinance for quartering the Troops upon certain occasions in the Country Parishes, and providing for the conveyance of effects belonging to the Government*; and the Ordinance of the said Legislature, passed in the twenty-ninth year of the Reign of King George the Third, and intituled, *An Ordinance to explain and amend an Act, intituled, 'An Act or Ordinance for better regulating the Militia of this Province, and rendering it of more general utility towards the preservation and security thereof'*; and the Ordinance of the Legislature of Lower Canada, passed in the first year of Her Majesty's Reign, and intituled, *An Ordinance to provide for the defence of this Province, and to regulate the Militia thereof*; and the Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to amend the Militia Law of that part of this Province formerly constituting the Province of Upper Canada*; and the Act of the said Legislature, passed in the eighth year of Her Majesty's Reign,

Preamble.

Certain Acts and Ordinances of Upper and Lower Canada and of Canada, repealed.

U. C.
49 Geo. 3. c. 2.

U. C.
2 Vict. c. 9.
Province of Quebec, 27.
Geo. 3. c. 2.

Province of Quebec, 27.
Geo. 3. c. 3.

Province of Quebec, 29.
Geo. 3. c. 4.

L. C., 1 Vict.
c. 22.

Canada, 4 & 5
Vict. c. 2.

Canada, 8
Vict. c. 51.

Except in so
far as they re-
peal other
Laws.

Proviso.

Reign, and intituled, *An Act to revive and continue, for a limited time, a certain Ordinance therein mentioned, for regulating the Militia in Lower Canada, and to suspend, for a like time a certain provision of the Militia Law of Upper Canada*, shall be and the same are hereby repealed, except in so far as the said Acts and Ordinances, or any of them, repeal any previous Act, Ordinance or provision of Law: Provided always, that nothing in this Act contained shall extend to repeal any Law providing for the performance of any Civil duties by Officers or Non-commissioned Officers of Militia, not inconsistent with this Act.

Of whom the
Militia shall
consist.

U. C., 2 Vict.
c. 9. sec. 3 & 4

L. C.,
10 & 11 Geo.
4. c. 3. sec. 1.

Proviso.

II. And be it enacted, That the Militia of this Province shall consist of the male inhabitants thereof, over the age of eighteen years, and under the age of sixty years, being natural born subjects of Her Majesty, or naturalized, and having resided more than six months in this Province; and the men composing the said Militia shall be divided into two classes, and all such persons between the ages of eighteen and forty years shall belong to and form the first class, and those between the ages of forty and sixty years, shall belong to and form the second class: Provided always, and be it enacted, that in time of peace the Privates of each Regiment of Militia, shall consist of men belonging to the first class only.

Governor may
appoint Offi-
cers of Militia.

U. C.,
2 Vict. c. 9.
sec. 2.

III. And be it enacted, That the Governor of this Province may, by Commissions under his hand and seal, appoint a sufficient number of Lieutenant-Colonels, Majors, Captains, and other Officers, to train, discipline, and command the Regiments or Battalions of the Militia to be formed under this Act, according to such orders and regulations as shall from time to time be issued by him for that purpose.

Proportion of
Officers.

L. C.,
10 & 11 Geo.
4. c. 3. sec. 4.
Field Officers.

IV. And be it enacted, That the proportion of the number of Officers to the number of Privates shall not be greater in the said Militia than in Her Majesty's Army; that every Field Officer and Adjutant in the said Militia shall be resident within the limits of his Regimental Division: And that every other Officer shall reside within the limits of his Battalion Division.

Rank of Mili-
tia Officers.

U. C., 2 Vict.
c. 9. sec. 2.

V. And be it enacted, That the Officers of Militia so commissioned and appointed, shall rank with Officers of Her Majesty's other Forces serving in this Province as Juniors of their respective ranks.

Governor to
form Battalion
and Regimental
Divisions.

VI. And be it enacted, That the Governor of this Province may, when and in such manner, not inconsistent with this Act, as he shall judge best for carrying the same into effect, divide this Province into Regimental Divisions and Battalion Divisions, and may in like manner from time to time alter the said Regimental or Battalion Divisions and establish others: And notice of such divisions and of all alterations thereof shall be given in such manner as the Governor shall direct: Provided always, that the Cities and Towns Corporate named in the Schedule to this Act, shall be considered as Battalion Divisions as far as regards the Officers to be appointed to Battalions within such Cities or Towns.

Commanding
Officers of
Battalions to
form Company
Divisions.

VII. And be it enacted, That the Lieutenant Colonel of each Battalion of the Militia (including any such Officer commanding a Regiment of only one Battalion) may in like manner divide his Battalion Division into Company Divisions, and may

may from time to time alter such Company Divisions or any of them, reporting such divisions and alterations forthwith to the Adjutant General, and giving notice thereof and otherwise proceeding with regard to the same, according to the provisions of this Act and such regulations made under it as may be then in force; and each Company shall be distinguished by a number to be assigned to it.

VIII. And be it enacted, That each and every person belonging to either class of Militiamen, shall enrol himself with the Captain or other Officer commanding the Company within the limits of which such Militiaman shall then reside, on some one of the first twenty days of the month of June in each and every year, and shall in so enrolling himself state his name, age and residence, and whether he is married or unmarried: And the Captain or other Officer commanding each Company shall cause such enrollment to be made, and shall give at least ten days previous public notice of the day or days (within the period aforesaid) and of the place within the Company Division on and at which he or some other Officer acting under his orders will attend for the purpose of making such enrollment.

Enrollment of
Militiamen.

IX. Provided always, and be it enacted, That in the present year such enrollment shall be made at such time as the Governor shall by any General Order appoint: Provided always, that all Clerks of the Peace, Assessors and persons employed in taking the *Census*, shall at all reasonable times allow the Officers or persons engaged in making such Rolls, free access to all public returns and documents in their custody, and afford them all such other official information as may be required for ascertaining what persons ought to enroll themselves as aforesaid.

Provision with
regard to en-
rollment of
present year.
Proviso.

X. And be it enacted, That each Officer receiving such enrollment as aforesaid, shall, within eight days after the completion thereof, return the Roll to the Officer Commanding his Battalion, who shall forthwith make a general return of his Battalion to the Adjutant General, and the Adjutant General shall thereupon (in obedience to such order as he shall receive from the Governor,) inform each Officer commanding a Battalion, of the *Quota* or number of men then required for active service; and the Officer commanding each Battalion shall then inform each Officer commanding a Company in such Battalion of the number of men for active service then required.

Officer Com-
manding
Battalion to
make a general
return.

XI. And be it enacted, That on receiving such information as last aforesaid, each Officer commanding a Company shall, by public notice, appoint a place and day at which he shall require all the Militiamen of the first class to attend for the purpose of determining who among them shall be the men for active service.

Service Com-
panies.

XII. And be it enacted, That on the day so appointed as last aforesaid such Captain or some Officer under his orders, shall take down the names of all the men of the first class belonging to the Company who shall volunteer for service, and if more than the requisite number shall so volunteer, he shall select such requisite number from those so volunteering, and the men so selected shall be the men for active service: but if less than the requisite number shall volunteer, then the men required to make up such number shall be ballotted for, and the
Captain

Men for active
service.

Captain or other Officer aforesaid shall proceed to ballot for such men in the manner following, or as nearly so as circumstances will allow, that is to say:

Ballot how conducted.

He shall write the name of each of the men who have not volunteered, on a slip of paper, and shall fold up the same (all the slips being as nearly as may be of the same size, and folded alike); and shall put the said slips into a box and shake them, and shall draw them out one by one, shaking them each time, and reading aloud and marking down each name so drawn, until the number sufficient to form the requisite number shall have been drawn, and he shall then stop: and the men whose names shall have been so drawn shall be those for active service during the term for which the ballot shall be made, leaving to each his lawful claim to exemption if any he shall have; but in taking the men to form the *Quota*, the unmarried men of the first class shall be first taken, and if they be insufficient, then the unmarried men of the second class, and, if these be insufficient, then the married men of the first class, and lastly the married men of the second class: Provided always, that if part only of the men of any of the descriptions aforesaid be taken, then Volunteers shall be first received and the remainder made up by ballot as aforesaid.

Return of proceedings.

And the Captain or other Officer aforesaid shall make a Return of all his proceedings to the Officer commanding the Battalion, who shall return the same to the Adjutant General, in such form and under such regulations as shall be directed by Militia General Orders: Provided always, that no such selection by volunteering or ballot shall be required, except when the said Militia are called out for active service, according to this Act.

Provide.

Captain to notify the men.

XIII. And be it enacted, That the said Captain or other Officer aforesaid, shall notify the men who are to serve, of their being so ballotted for active service, and of the period for which they are to serve.

In cases of emergency, the Governor may direct the men for active service to be assembled, &c.

Provide.

XIV. And be it enacted, That, in all cases of emergency, it shall be lawful for the Governor to order and direct the men so taken or ballotted for active service to assemble at such place or places as he shall appoint, for the purpose of being formed into Companies and Battalions: and it shall also be lawful for the Governor to designate by name or number the Battalions so to be formed, and to appoint such and so many Officers to train, discipline and command such Companies and Battalions as he may think fit, in conformity with the provisions of this Act as to the proportion between the number of Officers and Privates: Provided always, that the Captains and Subalterns shall be taken from the Regimental Division from which the privates they are appointed to command shall come, as far as the same may be practicable.

Deficiencies in Quota for service how supplied.

XV. And be it enacted, That if at any time it shall appear that the number of men for active service, volunteering or ballotted for service in the Militia in any Company Division, does not amount to the number which such division ought to furnish, the deficiency shall be supplied by volunteering or ballot from the men on the Roll of such division, to be ordered and made in the manner hereinbefore provided for balloting in other cases, or as nearly so as may be practicable.

XVI.

XVI. And be it enacted, That the ordinary *Quota* of Militiamen in this Province shall not exceed thirty thousand men, but it shall be lawful for the Governor from time to time to direct such contingent or *Quota* to be increased or diminished, as circumstances may require.

Ordinary
Quota.

XVII. Provided always, and be it enacted, That the period for which the Militiamen so called out for actual service shall be respectively liable to serve, shall be regulated as follows, that is to say; at the end of one year from the time of their being assembled for actual service, one half, to be determined by lot, under the direction of the Officer Commanding the Battallion, shall be permitted to return home, and the other half shall remain for a second year, and then also be permitted to return home; and the place of those returning home shall from time to time, and as often as occasion shall require, be supplied by a new *Quota* or contingent to be obtained and ballotted for as hereinbefore provided, so that, excepting the first half, the said Militiamen shall be liable to serve for two years at a time, and not longer: Provided that on every selection of a new *Quota* or contingent, those men who have already served, or who have served most recently, shall not be ballotted for a second term of service until the others of the respective classes have been exhausted.

Period for
which Militia-
men shall
serve.

Proviso.

XVIII. And be it enacted, That in so far as circumstances and the information possessed by the proper authorities will permit, the said Battalion and Company Divisions from which the *Quota* or contingent for active service is to be taken, shall be so made as that no Battalion shall consist of more than ten nor less than four Companies, and no Company of less than sixty nor of more than one hundred and twenty men, exclusive of Non-commissioned Officers and Drummers.

Strength of
Battalions and
Companies.

XIX. And be it enacted, That in addition to the *Quotas* or contingents actually organized, the Governor may call out and embody the whole or such part as may appear to him expedient of the Militia of any Regiment, Battalion or Company in this Province, in time of actual War with a Foreign Power, to repel invasion, or other pressing exigency, or for any purpose connected with the preservation of the public peace or the safety of the Province, in such manner as shall to him seem best, and may march the Militia into any part of the Province, and shall also have power to march the Militia or any portion thereof, to any place without the limits of the Province but conterminous therewith, for the attack of any enemy that may have invaded, or may be marching or collected for the purpose of invading this Province, or for the destruction of any vessel or vessels, built or building, or of any Fort, Depôt or Magazine, formed or forming, by any Foreign Power at War with the Queen, Her Heirs or Successors, from whence the invasion of this Province may be apprehended, and in no other case or cases whatever.

In case of In-
vasion or War
or Rebellion,
the Governor
may call out
the Militia,
U. C.,
2 Vict. c. 9.
sec. 6.

U. C.,
2 Vict. c. 9.
sec. 4.

And march
the same into
any part of the
Province or
out of it in cer-
tain cases.

U. C.,
2 Vict. c. 9.
sec. 33.

XX. And be it enacted, That whenever a part only of the Militia shall be so called out, it shall and may be lawful for any person being a private Militiaman to provide and send an approved substitute eligible to serve in the Militia to serve in his stead; and such substitute being accepted and enrolled for service, shall be liable to all the obligations of the man for whom he is substituted.

Militiamen
may provide
substitutes.

L. C.,
10 & 11 Geo.
4. c. 3. sec. 11.
U. C.,
2 Vict. c. 9.
sec. 6.

Punishment
for mutiny.

XXI. And be it enacted, That when the Militia are so called out and embodied, any Officer, Non-Commissioned Officer or Militiaman, belonging to any portion thereof so called out and embodied, who shall begin, excite, cause or join in any mutiny or sedition in the Regiment, Detachment, Troop or Company to which he belongs, or in any other Regiment, Detachment, Troop or Company, whether of Embodied Militia, or of Her Majesty's Regular or Provincial Forces, in any Camp or Post, or upon any party, detachment or guard, on any pretence whatever, shall suffer such punishment other than death or corporal punishment as by a General Court Martial shall be awarded.

For not using
endeavors to
suppress mu-
tiny.

XXII. And be it enacted, That any Officer, Non-commissioned Officer or Militiaman, who, being present at any mutiny or sedition, shall not use his utmost endeavours to suppress the same, or coming to the knowledge of such mutiny or sedition, shall not without delay give information thereof to his Commanding Officer, shall suffer such punishment, other than death or corporal punishment, as by a General Court Martial shall be awarded.

For desertion.

XXIII. And be it enacted, That any Officer, Non-commissioned Officer or Militiaman, who shall be convicted of having deserted to the enemy, shall suffer death or such other punishment as shall be awarded by a General Court Martial.

For being ab-
sent without
leave.

XXIV. And be it enacted, That any Officer, Non-commissioned Officer or Militiaman, who shall quit or otherwise absent himself from his Regiment, Detachment, Troop or Company, without a furlough from his Commanding Officer, or who shall withdraw himself from the Regiment, Detachment, Troop or Company, into which he has been embodied, in order to attach himself to any other Regiment, Detachment, Troop or Company then in service, whether of the Militia or of Her Majesty's Regular or Provincial Troops, shall, on being convicted thereof, be punished, (excepting by death or corporal punishment,) according to the nature of his offence, at the discretion of a General Court Martial; and in case any Officer of the Militia shall knowingly entertain such Non-commissioned Officer or Militiaman, or shall not, after his being discovered to be a deserter, immediately confine him and give notice to the Regiment, Detachment, Troop or Company in which he last served, he, the said Officer so offending, shall, on conviction thereof before a General Court Martial, be cashiered: And be it enacted, that if any Officer, Non-commissioned Officer or Militiaman, shall be convicted of having advised or persuaded any other Officer, Non-commissioned Officer or Militiaman to desert Her Majesty's Service, he shall suffer such punishment as shall be awarded by a General Court Martial.

Governor may
form certain
Volunteer Re-
giments.

U. C.,
2 Vict. c. 9,
sec. 14, 15, &
17.

XXV. And be it enacted, That the Governor shall have the power to form such men, belonging to the Militia, as shall volunteer for that purpose, into Regiments or other Corps of Militia, Dragoons, Artillery, Rifles or Light Infantry, separate and distinct from other Militia Corps, and to be taken from the different Battalion or Company Divisions aforesaid, in any Regimental Division, and from such local portions thereof as the Governor shall appoint with regard to each such Volunteer Corps, and to appoint the necessary Officers; and such Corps so constituted, shall be subject to such orders, rules and regulations, with respect to drill, inspection, or other duties, as from time to time may be issued for their efficient

efficient organization for actual service, apart from other Militia Corps in the Province, but shall otherwise be liable to the same duties and obligations as other Militia Corps, and subject to the provisions of this Act in like manner: Provided always, that nothing herein contained shall prevent any approved man from serving in any such Volunteer Corps although he be not then ballotted for service in the Militia, provided he shall take upon himself the same obligations and for the same period as if he were then so ballotted for service; and the obligations so taken upon himself shall then be as valid and binding and may be enforced against him in the same manner as if he had been ballotted for service as aforesaid.

Proviso.

XXVI. And be it enacted, That the Governor may, by Volunteers as aforesaid, and under like provisions, form a Provincial Naval Corps, and may appoint a Commodore, who shall rank with Lieutenant-Colonels of Militia, and also Captains and Lieutenants of a Provincial Navy, who shall rank with Majors and Captains of the Militia, as Seniors of their respective ranks; and the Officers and men of such Corps shall be drilled to the exercise of heavy guns, and to the management of gun-boats, in addition to their duties in the use of small arms as a Militia force.

Governor may appoint a Commodore, and Provincial Navy.

U. C.,
2 Vict. c. 9.
sec. 47.

XXVII. And be it enacted, That in case Her Majesty shall be pleased to appoint Inspecting Field Officers of Militia, holding the rank of Field Officer in Her Majesty's other Forces, for any portion or portions of this Province, such Inspecting Field Officers shall respectively have the rank of Colonel of Militia, and shall command the Militia within the Inspection Districts to which they shall be so appointed; but this grant of the Militia rank of Colonel shall not confer upon these Officers any privilege of rank or authority over any part of Her Majesty's Forces, beyond that which their rank in the Regular Service entitles them to: Provided, that all Colonels serving by Commissions signed by Her Majesty's General Commanding in Chief in British North America, shall, when employed on any duty in conjunction with Colonels serving by commissions from the Governor of this Province, have precedence of such Colonels although the Commissions of the latter be of elder date.

Inspecting Field Officers of Militia.

To have the rank of Colonels of Militia, and command the Militia Regiments in their Districts.

XXVIII. And be it enacted, That the First Class of Militia shall be assembled for muster and discipline, for one day in each year, as shall be directed in each division respectively, and such day shall be the twenty-ninth day of June, unless that day be Sunday, in which case the next following day shall be the day for so assembling: Provided always, that the Governor may, by any General Order, dispense with or forbid such assembling in any year and with regard to any division of Militia.

First Class of Militia to be assembled for training yearly.

Proviso.

XXIX. And be it enacted, That in case of any sudden emergency, wherein the aid of the said Militia Forces shall be required for the purposes of repelling any invasion, or any other pressing danger or emergency, when there shall be no opportunity of communication with the Governor, it shall be lawful for the Senior Lieutenant Colonel, or other Officer commanding any Regiment of Militia, to call out and assemble the whole, or any portion of the Militia of the Regimental Division in which such Lieutenant Colonel or other Officer shall command, as

In case of sudden emergency when reference cannot be had to the Governor, Officers commanding may call out the Militia.

U. C.,
2 Vict. c. 9.
sec. 36.

the

the case may be, for actual service, and to keep the said Militia, so called out, assembled for actual service until the pleasure of the Governor shall be known.

Persons ex-
empted from
serving in the
Militia.

U. C.,
2 Vict. c. 9.
sec. 51.

L. C.,
19 & 11 Geo.
4. c. 3. sec. 2.

XXX. And be it enacted, That the following persons shall be and are hereby excused from actual service in the said Militia, in any case, namely :

The Judges of Her Majesty's Courts of Queen's Bench, or of King's Bench :

The Vice Chancellor :

The Judge of the Court of Vice-Admiralty :

The Judges of the Circuit and District Courts, and Commissioners of Bankrupts :

The Clergy and Ministers of all denominations of Christians :

The Professors in any College or University, and the class of persons known as *Les Frères de la Doctrine Chrétienne* :

The Keepers and Guards of the Provincial Penitentiary.

And that the following persons shall be exempted from actual service in the said Militia, except in time of War, Invasion, or Insurrection, but not from enrollment :

The Members of the Executive and Legislative Councils :

The Members of the Legislative Assembly :

The Officers of the said Councils and Assembly, respectively :

The Attorneys and Solicitors General :

The Provincial Secretary, and Assistant Secretaries :

All Civil Officers who shall have been appointed to any Civil Office in this Province under the Great Seal :

All persons lawfully authorized to practise Physic or Surgery :

All Advocates, Barristers, Solicitors or Attorneys :

Notaries in Lower Canada :

Half pay and retired Officers of Her Majesty's Army and Navy :

Postmasters and Mail Carriers :

Sea-faring men actually employed in the line of their calling :

Masters of the Public or Common Schools :

Ferry-men :

One Miller for each run of stones in every Grist Mill :

Keepers of Public Toll Gates :

Lock Masters, and Labourers employed in attending to Locks or Bridges on Public Canals :

Members of Fire Companies and of Hook and Ladder Companies :

Constables and Officers of the Courts of Justice, not being such solely by virtue of their office as Non-commissioned Officers of Militia :

Students attending Seminaries, Colleges, Schools, and Academies, who have been attending such at least six months previous to the time at which they might be called upon to do Militia duty :

All persons disabled by bodily infirmity.

Provided always, that such exemption shall not prevent, or be construed to prevent any or every of the above-mentioned persons from holding Commissions as Officers of Militia, or from serving in the said Militia if they shall desire so to do ; And provided also, that the Governor may exempt any of the above mentioned persons, or any other persons, from actual service at any time in the said Militia ; Provided further, that no person shall, in any prosecution under this Act, be entitled to claim such exemption unless he shall before the commencement of such prosecution have served upon the Captain of the Company in which he ought otherwise to serve, a notice of his claim to such exemption, and his affidavit sworn before some Justice of the Peace, of the facts on which such claim shall be founded ; and in every case where exemption shall be claimed, as well on the ground of age as otherwise, the burden of proof shall lie upon the person making such claim.

Proviso.

Proviso.

Proviso.

XXXI. And be it enacted, That the persons called Quakers, Mennonists or Tunkers, who, from scruples of conscience, decline bearing arms, shall, on certain conditions, be exempt from actual service in the Militia, that is to say : every person who would otherwise be liable to serve in the Militia aforesaid, and who shall profess to be one of the people called Quakers, Mennonists or Tunkers, and shall produce to the Captain of the Company in which he ought otherwise to serve, a certificate of his being a Quaker, Mennonist or Tunker, signed by the Clerk, Pastor, Minister or Elder of such Society, or by three or more of the said people called Quakers, Mennonists or Tunkers, shall be exempt from actual service in the said Militia for one year, on payment to the said Captain of the sum of five shillings, currency, in time of Peace, and in case of War, Invasion, or other

Quakers,
Mennonists or
Tunkers, ex-
empted on
payment of
certain sums
of money,
U. C.,
2 Vict. c. 9,
sec. 52.

220.

other emergency, when the Militia aforesaid shall be under orders for actual service, of a sum not exceeding twenty pounds, currency; and that in case any such person shall neglect or refuse so to obtain such exemption, he shall be liable to the provisions of this Act, and to the same pains and penalties for any contravention thereof, as if he were not such Quaker, Mennonist or Tunker; But nothing herein contained shall be construed to exempt any such person as aforesaid, from the obligation to enrol himself in his Company Division as hereinbefore provided, or from the penalty for not so enrolling himself.

President of the Board of Officers to pay over to the Receiver General, the aforesaid exemption Fees.

U. C.,
2 Vict. c. 9.
sec. 40.

Persons having served as Commissioned or Non-commissioned Officers, not liable to serve in an inferior grade.

U. C.,
2 Vict. c. 9.
sec. 58.

Exception.

XXXII. And be it enacted, That within one month after receiving any fine or pecuniary penalty under this Act, the Officer receiving the same shall pay over to the Receiver General of this Province, for the public uses thereof, the monies he shall have so received; and if he shall wilfully neglect or refuse so to do, he shall be liable, upon trial and conviction for such offence, by General Court Martial, to be cashiered; and upon such trial the burden of proof of having paid over such sum shall be upon the person charged before such Court Martial.

XXXIII. And be it enacted, That no person who shall have been an Officer or Non-commissioned Officer in Her Majesty's Regular service, or in the Militia in any part of this Province, or an Officer in the Militia in any part of Her Majesty's Dominions, shall be obliged to serve in any inferior station in the Militia of this Province, unless he shall have been reduced by sentence of a Court Martial, or other lawful authority, or unless, having been offered the rank he may have theretofore held as aforesaid, he shall have refused or neglected to accept the same; and that every Officer and Non-commissioned Officer of Militia shall be exempt from the obligation of serving as Constable during the time he shall be such Officer or Non-commissioned Officer.

Governor may appoint an Adjutant General, and two Deputy Adjutants General.

XXXIV. And be it enacted, That it shall be lawful for the Governor to appoint by Commissions under his hand and seal, one Adjutant General of Militia, and two Deputy Adjutants General, who shall respectively be stationed in such place and places as the Governor from time to time shall order and direct, and who shall attend to the issuing of Militia General Orders, the preparation and issuing of Commissions of Militia Officers, to the organization, training, discipline and management of the said Militia, and perform the other duties appertaining to the office of Adjutant General of Militia, in obedience to such orders and regulations as shall be from time to time issued and made by the Governor of this Province.

Rank of Adjutant General and Deputy Adjutants General.

U. C., 2 Vict.
c. 9. sec. 57.

Governor may appoint persons on his Personal Staff, to any Militia rank not above the rank of Lieutenant Colonel.

U. C., 2 Vict.
c. 9. sec. 11.

XXXV. And be it enacted, That the Adjutant General of Militia shall have the rank of Colonel of Militia, and the Deputy Adjutants General shall have the rank of Lieutenant-Colonels of Militia.

XXXVI. And be it enacted, That the Governor may appoint persons belonging to his Personal Staff, to such Militia rank as he may think proper to confer, not exceeding the rank of Lieutenant Colonel, independent of, and apart from any rank that may be held by such person in any Regiment or Battalion of Militia in this Province.

XXXVII.

XXXVII. And be it enacted, That the Governor may from time to time prescribe the uniforms to be worn by the Militia of the Province when on duty upon actual service, and may require Officers of Militia to provide themselves with such books for instruction in their duty as he shall see fit.

Governor may, prescribe the uniform of the Militia.
U. C.
2 Vict. c. 9.
sec. 12.

XXXVIII. And be it enacted, That any Officer of Militia who shall not, when called out for actual service in time of war, provide himself with such uniform, including a sword, or who shall when on such actual service appear at any Muster or Inspection of the Battalion or Corps to which he shall belong, without being dressed in such uniform and sword, or who shall not have provided himself with such books of instruction as may be hereafter required by any Militia General Order, shall be and he is hereby declared to be superseded.

Penalty on Officers appearing without such uniforms, when on service.
U. C.
2 Vict. c. 9.
sec. 13.

XXXIX. And be it enacted, That any Officer of Militia who, in time of peace, shall be guilty of wilful neglect or disobedience of orders, or any act of insubordination, in the performance of his duty, shall, on conviction, be liable to pay a fine not less than two pounds, ten shillings, nor more than twenty pounds, besides costs of conviction, or to be dismissed the service, at the discretion of the Court before whom he shall be tried.

Penalties on Officers guilty of neglect.
U. C.
2 Vict. c. 9.
sec. 16.

XL. And be it enacted, That any Militiaman who, in time of peace, shall be guilty of wilful neglect or disobedience of orders at any time, or of any act of insubordination or misconduct, while on parade or engaged in the performance of Militia duty, shall, on conviction, incur a fine of not less than five shillings nor more than ten shillings over and above the costs of conviction; and in default of payment, and if sufficient distress be to found, shall be liable to imprisonment in the Common Gaol of the District for a term not less than six days, nor more than one month, unless the fine be sooner paid.

£2 10s.—£20.
Penalties on Militiamen guilty of neglect, &c.
U. C.
2 Vict. c. 9.
sec. 18.

XLI. And be it enacted, That any Officer or Militiaman, who, in time of War, or when the Regiment, Detachment, or Corps to which he shall belong, shall be ordered out for actual service, or any such danger or pressing emergency as aforesaid, shall wilfully refuse or neglect to obey any order, or shall abscond from, or neglect to repair to the place he is ordered to, shall, unless he shall satisfy the Lieutenant Colonel or Officer commanding the Battalion or Corps to which he belongs, that such refusal or neglect arose from sickness, or that he was absent upon leave, as soon as possible be brought to trial before a Court Martial, as hereinafter provided, and shall be liable to be punished by fine, imprisonment or otherwise in the discretion of the Court Martial by whom he shall be tried; Provided that no such Militiaman shall be flogged in any case whatever.

Penalties on persons who, in time of war, shall abscond, &c.
U. C.
2 Vict. c. 9.
sec. 6.

Except in cases of sickness, or absence on leave.

XLII. And be it enacted, That every person whether he be or be not in the Militia, and although he be also liable to be tried for the offence by Court Martial, who, at any time whatever, shall sell, barter or pledge, or tender in sale, barter or pledge, or unlawfully make away with any part of the arms or equipments of the said Militia force, or any ammunition or stores, and every person who shall buy or by barter or pledge obtain, or who shall otherwise unlawfully receive, take, or detain any portion of the said arms or equipments, or ammunition or stores, shall be deemed guilty of a misdemeanor upon conviction for such offence before any Court of competent jurisdiction, and be liable to be punished accordingly.

Penalty on persons unlawfully disposing of or obtaining arms or equipments of the Militia, or stores or ammunition.

XLIII.

General Court
Martial.
U. C.
2 Vict. c. 9.
sec. 31.
How to be con-
stituted.

XLIII. And be it enacted, That all Officers charged with any offence or offences against the provisions of this Act in time of peace, shall be tried by General Court Martial; and that the Governor of this Province shall have authority by any Militia General Orders, to assemble such General Court Martial,—the same to consist of one Field Officer of Militia as President, and at least six other Commissioned Officers; provided that when a Field Officer cannot conveniently be had for such service, a Captain may act as President.

Field Officers.
Senior Officer
to be President.

XLIV. Provided always, and be it enacted, That no Officer under the rank of Captain shall sit upon the trial of any Field Officer; and that the Senior Officer on any Court Martial shall be the President thereof.

Judge Advo-
cate.
U. C. 2 Vict. c.
9. sec. 34.
£1 5s.

XLV. And be it enacted, That the Governor may appoint a Judge Advocate for every General Court Martial, who shall be entitled to receive for each day upon which the Court Martial shall sit the sum of twenty-five shillings.

Regimental
Court Martial.
U. C. 2 Vict. c.
9. sec. 19.

XLVI. And be it enacted, That every Militiaman, charged with any offence or offences against the provisions of this Act in time of peace, shall be tried by Regimental Court Martial.

Ordinary
Court Martial.
U. C. 2 Vict.
c. 9. sec. 19.
How to be
constituted.

XLVII. And be it enacted, That the Officer commanding the Battalion or Corps to which the offender shall belong, shall have full power and authority, in time of peace, to assemble an Ordinary Court Martial, to be composed of not less than three Officers of the Battalion or Corps, one of whom shall be of the rank of Captain, and upon which Court the Officer who shall assemble the same shall not sit; and such Court shall have authority to hear and determine all charges that may be brought against any Militiaman for any offence or neglect of duty, contrary to the provisions of this Act.

Notice to be
given to per-
sons to be tried
by any Ord-
inary Court
Martial.
U. C. 2 Vict.
c. 9. sec. 21.

XLVIII. And be it enacted, That the Officer who shall assemble any such Ordinary Court Martial, in time of peace, shall order the Captain or other Officer in command of the Company to which the Militiaman charged with any offence against the provisions of this Act shall belong, to cause notice in writing to be given to the person so charged, requiring him to appear and answer to any such charge, which notice shall be signed by the Captain or Officer commanding such Company, and may be in the words, or to the effect following:

Form of such
Notice.

“ You, A. B., are required to attend before an Ordinary Court Martial of the
“ of Militia, which will assemble at
“ on the day of at o'clock in the forenoon,
“ to answer to a charge which will be then and there preferred against you, for
“ (*setting forth the offence briefly, as the case may be.*)”
“ Dated this day of 18
“ (*Signed,*) C. D. Captain of (or Officer commanding) the
“ Company of the of Militia.”

No person lia-
ble to be so
tried except
on proof of ser-

XLIX. And be it enacted, That no such Militiaman shall be condemned or liable to answer any charge preferred against him, unless it be proved at the time appointed for the trial of the charge, that he was served with a notice as herein-
before

before provided, at least four days before the meeting of the Court; and that if any such Militiaman, on whom such notice shall have been served, shall not appear to answer to the charge preferred against him, the Court may proceed to the trial of the said charge, and pronounce judgment as if the person so charged were present and answering to such charge.

vice of such notice.
U. C. 2 Vict.
c. 9. se c. 22.
Persons not appearing.

L. And be it enacted, That the person who shall serve notices as required by this Act, shall be entitled to receive four pence for each mile he shall necessarily travel, to effect such service, and one shilling and three pence for such service; and every person who shall arrest and convey to prison any Militiaman, in pursuance of the sentence of any such Court Martial, shall receive the sum of one shilling and three pence for such arrest, and four pence for each mile he shall necessarily travel to make the same.

Fees for serving Notices, or conveying prisoners to Gaol.
U. C. 2 Vict.
c. 9. sec. 25.
4d.
1s. 3d.
1s. 3d.

LI. And be it enacted, That the persons who shall be employed in the summoning witnesses, and in serving notices, and others who shall be entitled under this Act to remuneration for any service relating to such Court Martial, shall be entitled to receive the same from the President of such Court Martial, to whom it shall be paid by the Adjutant General, out of such monies as shall be from time to time advanced to him (by warrant of the Governor addressed to the Receiver General) for the purpose of defraying the contingent expenses lawfully incurred under this Act; and such Adjutant General is hereby authorized and required to pay the same, upon receiving a Pay List signed by the President of such Court Martial, and shall charge the said amount in account with the Government of this Province.

By whom Fees shall be paid.

Fees shall be charged against the Provincial Government.

LII. And be it enacted, That no Officer serving in the Militia shall sit on any Court Martial upon the trial of any Officer or Soldier serving in any of Her Majesty's other Forces; nor shall any Officer serving in any of Her Majesty's other Forces sit in Court Martial upon the trial of any Officer or Soldier serving in the Militia.

Courts Martial for trial of Officers of Her Majesty's Regular Forces.
L. C. 10 & 11
Geo. 4. c. 3.
sec. 12.

LIII. And be it enacted, That no sentence of any General Court Martial shall be carried into effect until the same shall be approved by the Governor of this Province; and no sentence of any Ordinary Court Martial shall be carried into effect until the same shall be approved by the Officer who shall have assembled such Ordinary Court Martial.

Sentence to be approved.
U. C. 2 Vict.
c. 9. sec. 34.

LIV. And be it enacted, That every such Militia Court Martial (General as well as Ordinary) shall have power to summon witnesses, and to examine such witnesses upon oath, relative to any charge which such Court Martial shall be assembled to try; and if any witness so summoned shall neglect or refuse to give his attendance or being in attendance shall refuse to give evidence, he may, by such Court Martial, be committed to the Common Gaol of the District in which such Court Martial shall be held, for any term not exceeding eight days.

Courts Martial may command the attendance of witnesses.
U. C. 2 Vict.
c. 9. sec. 23.
Eight days.

LV. And be it enacted, That in all trials by Militia General Courts Martial, the Judge Advocate, or person officiating as such, shall administer to each Member the oath hereinafter inserted; and in trials by all other Militia Courts Martial, the

Members of Courts Martial to be sworn.
U. C. 2 Vict.
c. 9. sec. 34.

the same oath shall be administered by the President to the other Members, and afterwards, by any sworn Member, to the President:—
 "You shall well and truly try, and determine according to the evidence, the matter now before you, and you shall duly administer justice therein, according to law, without partiality, favour, or affection: you shall not divulge the sentence of the Court until it shall be approved by the Governor; (or in case of an Ordinary Court Martial, by the Officer to whom such approval shall lawfully belong,) neither shall you at any time or on any account whatsoever disclose or discover the vote or opinion of any particular member of the Court Martial, unless required to give evidence thereof in due course of Law; So help you God."

Judge Advocate to be sworn.

And as soon as the said oath shall have been administered to the respective members, the President of the Court shall administer to the Judge Advocate, or person officiating as such at a General Court Martial, an oath in the following words:

His Oath.

"I, A. B., do swear, that I will not, on any account whatsoever, discover the vote or opinion of any particular Member of this Court Martial, unless required to give evidence thereof as a witness by a Court of Justice or a Court Martial, in due course of Law; So help me God!"

Witnesses to be sworn. U. C. 2 Vict. c. 9. sec. 34.

And be it enacted, That all persons who shall give evidence before any Court Martial, shall be examined on oath in the following words:

Their Oath.

"The evidence which you shall give before the Court, shall be the truth, the whole truth, and nothing but the truth; So Help you God."

Persons interfering proceedings of Court Martial.

And be it enacted, That any person who shall use menacing words, signs or gestures in presence of any Court Martial, or shall cause any disorder or riot so as to disturb its proceedings, shall be liable to be imprisoned, upon the warrant of the President of the Court, in the Common Gaol of the District in which such Court shall sit, for any period not exceeding eight days, at the discretion of such Court Martial.

Court of Inquiry; U. C. 2 Vict. c. 9. sec. 28.

And be it enacted, That the Governor may, if he shall think proper, when any complaint shall be made against any Officer of the Militia, or when any application shall be made to him in that behalf, assemble a Militia General Court Martial, or may, at any other time, appoint a Court of Inquiry, to consist of at least three Militia Officers, to examine into and report upon such complaint, or upon the grounds of any such application, or cause of inquiry.

How to be constituted.

LIX. And be it enacted, That all persons imprisoned under sentence or order of any Court Martial in time of peace, shall, by the Warrant of the President of such Court Martial, under his hand and seal, specifying the cause of the commitment of such persons, be committed to the Common Gaol of the District in which the Court Martial shall be held; and upon such Warrant, shall be received and kept by the gaoler for the period therein mentioned.

Persons imprisoned under sentence of Courts Martial, to be committed to the common gaol.

LX. And be it enacted, That if any person shall wilfully interrupt or molest any portion of the said Militia Force whilst on any lawful duty, it shall be lawful for the Officer present and in command thereof, to cause such person to be arrested and taken under guard of any one or more Militiamen, before any one of Her Majesty's Justices of the Peace, who, after complaint made upon oath, shall, upon summary conviction, sentence such offender to pay a fine not exceeding ten shillings, or in default of payment and of sufficient distress, may commit the offender for a period not exceeding eight days, to the Common Gaol of the District, if the fine be not sooner paid.

Persons interrupting Militia on duty may be confined by Commanding Officer.

U. C. 2 Vict. c. 9. sec. 50.

10s.

Eight days.

LXI. And be it enacted, That when Her Majesty's Regular Forces, or the Militia aforesaid, shall be on a march within this Province, and billeted as herein-after mentioned, each and every Householder therein shall, when required, furnish them with house-room, fire, and utensils for cooking, and candles; and in cases of emergency, by actual invasion or otherwise, it shall and may be lawful for the Officer commanding the Regiment, Battalion or Detachment of Troops or Militia, to direct and empower any Officer or Non-commissioned Officer of the same, or other person, having first obtained a Warrant for such purpose from a Justice of the Peace, to impress and take such horses, carriages, or oxen as the service may require, the use of which shall be thereafter paid for at the usual rate of hire for such horses, carriages or oxen.

Billeting Her Majesty's Troops or Militia on a march.

In cases of invasion.

LXII. And be it enacted, That when the said Troops of Her Majesty, or Militia, or any Regiment, Battalion, or Detachment of the same, are on a march as aforesaid, the Officer or Non-commissioned Officer commanding such Troops or Militia, or such Regiment, Battalion or Detachment thereof, shall present to a Justice of the Peace a requisition in writing to such Justice to billet, who shall immediately thereupon billet the said Troops or Militia as to facilitate their march, and in such manner as may be most commodious to the inhabitants; and that every inhabitant householder who shall refuse to receive the said Troops or Militia, so billeted upon them as aforesaid, or to furnish them with the lodging and articles mentioned in the next preceding section, shall, for every such offence, forfeit and pay a sum not exceeding forty shillings; And no Officer shall be obliged to pay for his lodging where he shall be regularly billeted; but each Householder upon whom such soldiers are billeted, shall receive from Government for each Non-commissioned Officer, Drummer and Private of Infantry, a daily rate of four pence, and for each Cavalry soldier, whose horse shall be also provided with stabling and forage, a daily rate of ten pence; and every Officer or Non-commissioned Officer to whom it belongs to receive, or who does actually receive the pay for any Officers or Soldiers shall, every four days, or before they shall quit their quarters, if they shall not remain so long as four days, settle the just demands of all householders, victualers, or other persons upon whom such Officers and Soldiers are billeted, out of their pay and subsistence money, before any part of the said pay or subsistence money be distributed to them respectively, provided such demands do not exceed in amount their pay and subsistence money for the time, credit beyond which is not to be granted.

Penalties on householders.

Duties of Justices.

Rates of payment for billeting and duties of officers with respect thereto.

LXIII. And be it enacted, That when the safety of this Province shall require that the said Troops of Her Majesty, or Militia, or any Regiment, Corps or Detachment

The mode of billeting Her Majesty's

Troops, or the
Militia when
cantoned ;
U. C. 49 Geo.
3. c. 2. sec. 3.

Penalty on re-
fusing to re-
ceive the said
Troops, or the
Militia.
£2.

Redress in case
any person
shall think
himself ag-
grieved.

£2.
Proviso.
No Officer be-
ing a Justice
of the Peace
may be con-
cerned in bil-
leting.

Carriages to
be furnished
to Her Majes-
ty's Troops, or
the Militia,
when in can-
tonment.

U. C. 49 Geo.
3. c. 2. s. 4.

Mode of doing
so.

Penalty on re-
fusing to fur-
nish such car-
riages.

£2.

Proviso.
Such carria-
ges, horses or
oxen may
not be com-
pelled to pro-

Detachment of the same should be cantoned in any part or parts of this Province, then and in such case it shall and may be lawful for any Justice of the Peace in the respective Districts where such Troops or Militia may be cantoned, upon receiving an order from the Commander of the said Troops or Militia, or on a requisition from the Officer commanding any such cantonment, to quarter and billet, and the said Justice is hereby required to quarter and billet the Officers, Non-commissioned Officers, Drummers and Privates of the said Troops or Militia, upon the several inhabitant householders, as near as may be to the place of cantonment, avoiding as much as possible to incommode the said inhabitants, and taking due care to accommodate the said Troops or Militia ; and if any inhabitant householder shall refuse to receive such Troops or Militia, so billeted on him as aforesaid, and to furnish them with the lodging and articles hereinbefore mentioned, he shall for each and every offence forfeit and pay a sum not exceeding forty shillings ; and if any inhabitant shall consider himself aggrieved by having a greater number of the said Troops or Militia billeted upon him than he ought to bear in proportion to his neighbours, by the said Justice, then on complaint being made to two or more Justices of the District where such Troops or Militia shall be cantoned, it shall and may be lawful for such Justices, and they are hereby authorized to relieve such inhabitant, by ordering such and so many of the said Troops or Militia to be removed and quartered upon such other person or persons as they shall see cause, and such other person or persons shall be obliged, under a penalty not exceeding forty shillings, to receive such Troops or Militia accordingly : Provided that no Justice or Justices of the Peace, having any Military Office or Commission in the said Troops or Militia, shall directly or indirectly be concerned in the quartering or billeting of any Officer, Non-commissioned Officer, Soldier or Soldiers of the Regiment, Corps or Detachment under the immediate command of such Justice or Justices : Provided always, that nothing in this Act contained shall be construed to authorize the quartering or billeting of any Troops or Militia, either on a march or in cantonment, in any Convent or Nunnery of any Religious Order of Females, or to oblige any such Religious Order to receive such Troops or Militia, or to furnish them with lodging or house-room.

LXIV. And be it enacted, That when the said Troops of Her Majesty, or Militia, or any part of them, shall be so cantoned as aforesaid, any Justice of the Peace of and in the District where such cantonment is made, upon receiving an order from the Commander of the said Troops or Militia in that behalf, or a Requisition in writing from the Officer commanding that cantonment, for such and so many carriages as may be requisite and necessary for the said Troops or Militia, shall and may, and he is hereby required to issue his Warrant to such person or persons as may be possessed of carriages, horses or oxen within his jurisdiction, requiring him or them to furnish the same for the service aforesaid ; and if any such person or persons shall neglect or refuse, after receiving such Warrant, to furnish his or their carriage or carriages, horses or oxen for that service, each and every such person or persons shall forfeit and pay a sum not exceeding forty shillings : and the said carriages, horses or oxen may be impressed and taken for such service ; Provided always, that such carriage or carriages, horses or oxen, or the carriage or carriages, horses or oxen mentioned in the previous clauses or sections of this Act, shall not be compelled to proceed more than thirty miles, unless in cases where other carriages, horses or oxen cannot immediately be had

to

to replace them ; and such carriages, horses or oxen shall be paid for at the usual rate of hire.

LXV. And be it enacted, That in cases of emergency, when it may be necessary to provide proper and speedy means for the conveyance by water of the said Troops of Her Majesty, or Militia, and also of their ammunition, stores, provisions and baggage, any Justice of the Peace of and in the District where such Troops or Militia may be either on a march or in cantonment, upon receiving a Requisition in writing from the Officer commanding such Troops or Militia, for such boats or other craft as may be requisite for the conveyance of the said Troops or Militia, and their ammunition, stores, provisions and baggage, shall and may and he is hereby required to issue his Warrant to such person or persons as may be possessed of such boats or other craft, within his jurisdiction, requiring him or them to furnish the same for that service, at and after the rate of payment to be allowed by the said Justice, not exceeding the usual rate of hire for such boats or other craft ; and if any such person or persons shall neglect or refuse, after receiving such Warrant, to furnish his or their boats or craft for that service, such and every such person or persons shall forfeit and pay a sum not exceeding five pounds, and such boats or other craft may be impressed and taken for such service.

LXVI. Provided always, and be it enacted, That if any Officer of Militia shall be guilty of partiality in having exempted any person or persons from such service as aforesaid, without being legally authorized so to do, or in having commanded others to perform such service out of their turn of duty, or shall in any way misuse the power in the five next preceding sections vested in him, he shall for such offence incur a penalty not exceeding five pounds, to be recovered before any two Justices of the Peace, or may be tried by Court Martial and punished in the discretion of the Court.

LXVII. And be it enacted, That no person who shall have been dismissed from Her Majesty's Army or from the Militia, by sentence of a General Court Martial, shall be allowed to hold a Commission in the Militia of this Province.

LXVIII. And be it enacted, That the penalties imposed by this Act, and for the recovery of which special provision is not hereinbefore made, may be recovered and enforced before any two or more Justices of the Peace nearest to the place wherein the offence shall have been committed or the offender shall be found, and on the oath of any credible witness or witnesses, or of the informer or prosecutor, to whom no part of the penalty shall in any case belong : and all such penalties, when not otherwise provided for, may be received by such Justices or one of them, and shall be accounted for and paid over for public uses, in the same manner as other penalties received by Justices of the Peace.

LXIX. And be it enacted, That all pecuniary penalties and forfeitures by this Act inflicted, or authorized to be imposed, shall be levied and recovered by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of the Justice of the Peace or of one of the Justices of the Peace, or under the Warrant of the Court, before whom the offender shall have been convicted

ceed more than 30 miles.
U. C. 49 Geo.
3. c. 2. sec. 5.

Boats or other craft to be furnished to Her Majesty's Troops or the Militia in cases of emergency.
U. C. 49 Geo.
3. c. 2. sec. 5.

Mode of doing so.
To be paid for at the usual rate of hire.

Penalty on refusing to furnish such boats or craft.
£5.

Proviso-Penalty on Officers of Militia exempting any person from service mentioned in foregoing clause, &c.
£5.

Persons dismissed Her Majesty's Service, not eligible to hold Commissions in Militia.
U. C. 2 Vic. c.
9. sec. 60.

Penalties levied under this Act may in certain cases be recovered before two or more Justices of the Peace for the District wherein offence is committed.
Mode of levying Penalties under this Act.

U. C. 49 Geo.
3. c. 3. sec. 6.

Distribution.

convicted; and such Justice or Court is hereby empowered and required to issue such Warrant, and in default of sufficient distress, to commit the offender to Gaol by a like Warrant for the period hereinbefore provided in the case; and every Sheriff, Gaoler or other Officer to whom any such Warrant shall be addressed shall obey the same according to the tenor thereof; and the overplus, if any, of the money arising by any such distress and sale shall be returned, upon demand, to the owner or owners of such goods and chattels, deducting therefrom the costs and charges of such distress and sale; and the said penalties and forfeitures shall be paid into the hands of the Receiver General, for the public uses of this Province.

Governor may
pardon offen-
ces, and remit
fines:

U. C. 2 Vict.
c. 9. sec. 61.

LXX. And be it enacted and declared, That the Governor of this Province may issue Her Majesty's pardon for any offence or offences against the provisions of this Act, and may remit any fines or other penalties incurred for any such offence or offences.

False swear-
ing to be per-
jury.

LXXI. And be it enacted, That if the statement in any oath or affirmation taken or made in pursuance of this Act, shall, to the knowledge of the person making the same, be false, such person shall be guilty of wilful and corrupt perjury; and whenever an oath is required by this Act, a solemn affirmation may be made instead thereof, if the party of whom the oath would be required be one of those entitled by law to make affirmation.

Limitation of
prosecutions
for offences
against this
Act.

LXXII. And be it enacted, That no complaint or prosecution shall be brought against any person or persons for any fine or penalty hereinbefore imposed, unless the same be commenced within six months next after the offence committed, except in cases of desertion, or harbouring, concealing, aiding or abetting Deserters, or buying, taking in exchange or concealing arms or accoutrements delivered to Militia.

Limitation
actions
brought for
anything done
in pursuance
of this Act.

LXXIII. And be it enacted, That if any action shall be brought against any person or persons for anything done in pursuance of this Act, the same shall be commenced within six months next after the fact committed, and not afterwards: And the Defendant or Defendants in every such action or suit may plead the general issue and give this Act and the special matter in evidence: And if judgment shall be given for the Defendant or Defendants in any such action or suit, or if the Plaintiff or Plaintiffs shall be nonsuited or discontinue his or their action or suit, after the Defendant or Defendants shall have appeared, the Defendant or Defendants shall have treble costs and have the like remedy for the same as any Defendant hath in other cases to recover costs by law.

To whom
commissions
shall be trans-
mitted.

U. C. 2 Vict.
c. 9. sec. 40.
U. C. 2 Vict.
c. 9. sec. 41.

Adjutant Gen-
eral to trans-
mit Blank
Forms to Offi-
cers of Militia.

LXXIV. And be it enacted, That all Commissions to Officers of Militia shall be transmitted by the Adjutant General, or one of the Deputy Adjutants General of Militia, to the Lieutenant Colonel or Officer commanding any Corps, to be delivered to the respective Officers appointed to such Corps.

LXXV. And be it enacted, That it shall be the duty of the Adjutant General to cause to be prepared and printed and transmitted to the several Officers of Militia, who may, under the provisions of the Act, have occasion for the same, proper Blank Forms for all Returns and other proceedings required under this Act.

LXXVI.

LXXVI. And be it enacted, That when, and so often as the words "Governor," or "Governor of this Province," are used in this Act, the same shall be held to mean and signify the Governor, Lieutenant Governor or person administering the Government of this Province, or any Deputy by him lawfully appointed to perform the function to which the enactment may relate; and the words "Lower Canada," shall mean all that part of this Province formerly constituting the Province of Lower Canada, and the words "Upper Canada" shall mean all that part of this Province formerly constituting the Province of Upper Canada; and the words "Militiaman," or "Militiamen," shall include Non-commissioned Officers, Drummers and Privates of the Militia; and any duty hereby assigned to any Officer, may, if there be then no such Officer, be performed by the Officer next in rank on whom his command or duties shall have for the time devolved, unless in either case there be some thing in the subject or context inconsistent with such construction; and whenever power is given to any Officer or person to do any act or perform any duty, all such powers shall be understood to be given as shall be requisite for the proper doing or performance thereof; and generally all words, phrases and provisions herein contained shall receive such fair and liberal construction as shall be best calculated to give full effect to this Act, according to its true intent, spirit and meaning.

Interpretation
of the words
in this Act.

LXXVII. And be it enacted, That this Act shall remain and be in force for the period of three years, and thence to the end of the next ensuing Session of Parliament, and no longer: Provided always nevertheless, that if at the time this Act would accordingly expire there shall be War between Her Majesty, Her Heirs or Successors and the United States of America, then and in such case this Act shall continue and be in force until the end of the Session of Parliament next ensuing the Proclamation of Peace and no longer.

Duration of
this Act.

Proviso.

SCHEDULE.

Cities and Towns Corporate referred to in the sixth Section of this Act.

QUEBEC,	MONTREAL,	TORONTO,
	HAMILTON,	
KINGSTON,	BYTOWN,	LONDON.

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Law Printer to the Queen's Most Excellent Majesty.

of any other part of the said Act, is hereby repealed ; and every Circuit Court, in the said Districts, shall, within the limits of the Circuit thereof, have exclusive cognizance of Suits or Actions cognizable therein, subject to the same provisions as heretofore as to the evocation thereof to the Court of Queen's Bench for the District sitting in Superior Term, saving always, that if the evocation be not maintained, the cause shall be remitted to the Circuit Court, to be there tried and determined ; and the Court of Queen's Bench, sitting in Inferior Term, in either of the said Districts, shall have jurisdiction only within such parts of the District as are not within the limits of any Circuit ; and no person shall be bound to attend at any such Inferior Term as a Witness in any Suit or Action pending therein, unless he be resident within the jurisdiction of the Court sitting in Inferior Term, or within ten leagues of the place where such Term shall be held : Provided always, that nothing herein contained shall prevent any such Court, sitting in Inferior Term, from proceeding as if this Act had not been passed, to trial, judgment and execution in any case returned into Court, and pending before it when this Act shall come into force, or arising out of any intervention, opposition, or other proceeding, in any such case.

Proviso, as to cases pending when this Act shall come into force; and matters arising out of such cases.

Part of sect. 9, & 19 of 7 V. c. 16, repealed : And new times for holding the Terms or Session of the Courts of Q. B. at Quebec and Montreal.

In the District of Quebec.

In the District of Montreal.

What shall be Juridical days and Return days.

III. And be it enacted, That so much of the ninth and nineteenth sections or of any other part of the Act secondly above cited, as fixes the times at which the several Terms or Sessions of the Courts of Queen's Bench for the Districts of Quebec and Montreal are to be held, shall be and is hereby repealed, from and after the first day of August next, and the Terms or Sessions of the said Courts shall thereafter be holden at the times hereinafter appointed in each and every year, that is to say : In the District of Quebec, for the cognizance of all crimes and criminal offences, from the first to the tenth day of each of the months of February and August : in the said District, for the cognizance of all Suits or Actions of a civil nature, or where the Crown is a party, cognizable by the said Court in Superior Term, from the seventh to the thirty-first day of January, and from the first to the twenty-fifth day of each of the months of April, July and October, in the said District for the cognizance of all Suits or Actions of a civil nature, or where the Crown is a party, cognizable by the said Court, in Inferior Term, from the sixteenth to the twenty-fifth of each of the months of February and May, and from the first to the tenth of each of the months of September and December : In the said District of Montreal, for the cognizance of all crimes and criminal offences, from the first to the fifteenth day of each of the months of February and August ; in the said District, for the cognizance of all Suits or Actions of a civil nature, or where the Crown may be a party, cognizable by the said Court in Superior Term, from the seventh to the thirty-first day of January and from the first to the twenty-fifth day of each of the months of April, July and October ; in the said District, for the cognizance of all Suits or Actions, of a civil nature, or where the Crown may be a party, cognizable by the said Courts in Inferior Term, from the sixteenth to the twenty-fifth day of each of the months of February and May, and from the first to the tenth day of each of the months of September and December ; the first and last days named in every case inclusive : And the said Courts shall sit for the purposes aforesaid, on each and every day during the said Terms and Sessions, Sundays and Holidays excepted, and every Juridical day during the same shall be a return day.

IV. And be it enacted, That so much of the said nineteenth section of the said Act secondly above cited, as requires that an Inferior term of the Court of Queen's Bench for the District of Three-Rivers, should be held by the Resident Judge for that District, from the first to the seventh day of the month of June, be, and the same is hereby repealed, and that in lieu thereof an Inferior term of the said Court, shall be held by the said Resident Judge, from the fifteenth to the twenty-first day of May in every year, both days inclusive.

Part of sect. 19 of 7 V. c. 16, repealed, and the time of holding one of the Inferior terms at Three-Rivers altered.

V. And be it enacted, That so much of the sixth section or of any other part of the Act last above cited, as directs that a Term of the Court of Appeals shall be held from the first to the tenth day of July, in each year, shall be and is hereby repealed; and that instead of the said Term a Term of the said Court shall be held from the first to the tenth day of June in each year, both days inclusive.

Part of sect. 6 of 7 V. c. 18, repealed, and the time of holding one of the Terms of the Court of Appeals altered.

VI. And be it enacted, That every Writ or Process issued before this Act shall be in force, which shall have been made returnable into any Court of Queen's Bench, or into the Court of Appeals, or any day subsequent to the said first day of August next, shall be returned into such Court on that Juridical day of any Term of such Court held for the cognizance of matters of the nature of that in which such Writ or Process shall have issued, which shall be next after the day on which such Writ or Process shall have been made returnable.

Provision as to Writs and Process issued before this Act shall be in force, but made returnable after that time.

VII. And be it enacted, That whenever in any cause before any Court of Queen's Bench, a Judge or Judges *ad hoc* ought to be appointed under the provisions of the fourteenth section of the Act herein first above cited, and it shall happen that all or any of the Justices of the other Courts of Queen's Bench shall be also lawfully recused, disqualified or rendered incompetent by interest or otherwise to sit in such Court, then it shall be lawful for the Governor, Lieutenant-Governor, or person administering the Government, by an instrument under his hand and seal, to appoint and empower one or more of the Circuit Judges for either of the Districts of Quebec or Montreal, or other persons being Advocates of at least eight years standing, to sit in the place and stead of the Justice or Justices of the said Court recused, disqualified or rendered incompetent, for the purpose of hearing and determining such cause, and the person or persons so appointed a Justice or Justices *ad hoc* shall have, during the continuance of such appointment, the same power and authority in and with regard to the said cause as the Justice or Justices in whose stead he or they shall be appointed to act would otherwise have had.

Whenever under sect. 14 of 7 V. c. 16, a Judge *ad hoc* ought to be appointed, and the Judges of the other Courts of Q. B. shall be disqualified, a Circuit Judge or Advocate may be appointed to be Judge *ad hoc*.

Powers of such Judge *ad hoc*.

VIII. And be it enacted, That for and notwithstanding any thing in the said Act secondly above cited, the Circuit, therein called the "Shefford Circuit," shall, from and after the first day of August next, be called the "Missisquoi Circuit," and that from and after the said day, the Township of Stanbridge and the Parishes of Saint Armand East and Saint Armand West shall cease to form part of the Saint Johns Circuit, and shall be united to and form part of the said Missisquoi Circuit; and that notwithstanding as aforesaid, the Circuit Court for the said Circuit shall, from and after the ninth day of August next, be held at Nelsonville, in the Township of Dunham, instead of being held at or near West Church in the Township of Shefford; and all Writs and Process theretofore made returnable

Name of the "Shefford Circuit" changed to the "Missisquoi Circuit," and the extent of the Circuit, and place of holding the Court altered.

Proviso as to
proceedings
commenced
before this Act
shall come into
force.

returnable at the place last named shall be thereafter returnable at Nelsonville aforesaid, to which place the records of the Court shall be accordingly removed: Provided always, that all suits, actions and matters commenced in the Circuit Court for the Saint Johns Circuit before the said first day of August next, and all oppositions and other proceedings incidental thereto, shall and may be made, heard, continued and completed, and execution issued therein in the said Circuit Court, as if this Act had not been passed, notwithstanding the change hereby made in the jurisdiction of the said Circuit Court.

When this
Act shall come
into force, and
its duration.

IX. And be it enacted, That this Act shall have force and effect upon, from and after the first day of August, one thousand eight hundred and forty-six, and not before, and shall continue in force until the first day of August, in the year of our Lord, one thousand eight hundred and forty-seven, and thence until the end of the then next Session of Parliament, and no longer.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. XXX.

An Act to continue and amend the Bankrupt Laws now in force in this Province.

[9th June, 1846.]

WHEREAS it is expedient to continue, with certain amendments and provisions, the Act hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to repeal an Ordinance of Lower Canada, intituled, 'An Ordinance concerning Bankrupts, and the Administration and Distribution of their Estates and Effects,' and to make provision for the same object throughout the Province of Canada*, shall be and is hereby continued, and shall remain in force until the first day of June next, and thence until the end of the then next Session of the Provincial Parliament, and no longer, subject to the amendments and provisions hereinafter made, which shall apply to and affect all proceedings to be had, or things to be done after the passing of this Act, although such proceedings or things may relate to cases in which the Commission of Bankruptcy shall have issued before the passing hereof; but the said provisions shall not apply to or affect any proceeding had or thing done or any decision given, before the passing hereof, in any such case, save and except in so far as it may, in either section of this Province, be held that they or any of them may be inferred from those in the said Act, as the legal consequences thereof, and to be therefore only declaratory of the existing law; and their enactment in this Act shall not be construed to prevent such inference, if without this Act it could have been fairly made.

Preamble.

Act 7 Vict. c. 10, continued with amendments, to 1st June, 1847, and to the end of the next Session.

II. And be it enacted, That (except as hereinbefore excepted) the following provisions of this Act shall have force and effect upon, from and after the first day of July next, one thousand eight hundred and forty-six, and not before.

Commencement of this Act.

III. And be it enacted, That if in any case wherein, by virtue of the Act of the Legislature of Lower Canada, passed in the ninth year of the Reign of His late Majesty,

Not appearing when called in the manner

provided by
the Act of L.
C. 9 Geo. 4,
c. 28, to be an
Act of Bank-
ruptcy.

Majesty, King George the Fourth, and intituled, *An Act to facilitate the proceedings against the Estates and Effects of Debtors in certain cases*, a notice shall have been inserted by order of the proper Court, in a public newspaper and in the manner by the said Act provided, for a Trader Debtor to appear in such Court within two months, and await the judgment of the Court, then, if such Trader Debtor shall not appear, either in person or by attorney, within the time specified in such notice, and show reasonable cause why the Court should not proceed to judgment in the suit or action, the default of such Trader so to appear shall be an act of Bankruptcy.

Bond under
sects. 5 & 8 of
7 Vict. c. 10,
to be void after
a certain lapse
of time without
action.

IV. And be it enacted, That the Bond given under the provisions of the fifth and eighth sections of the first above cited Act, to pay whatever sum shall be recovered in any action which shall have been or shall thereafter be brought for the recovery of any demand or residue of a demand, shall be null and void against the sureties, after the lapse of one year from the date thereof, unless the action for the recovering of such demand or residue shall have been brought within the said period of one year.

Proof must be
made that the
party is a tra-
der, before a
Commission
can issue.

V. And be it enacted, That in addition to the proof of the Act of Bankruptcy required by the twenty-second section of the Act first above cited, before any Commission of Bankruptcy can issue, it shall also be requisite that it be proved to the satisfaction of the Judge or Commissioner, by the oath of at least one credible witness, not being a Creditor, that the party alleged to have committed the act of Bankruptcy is a Trader within the meaning of the said Act.

Sheriff autho-
rized to break
open doors,
&c., where
Bankrupt's ef-
fects may be,
and to seize
such effects
wherever
found.

VI. And be it enacted, That the Commission of Bankruptcy shall be sufficient warrant and authority to the Sheriff to whom it shall be directed to break open any house, chamber, shop, warehouse or door, or any trunk, chest, desk or other thing, in any place where the Bankrupt or any of his effects shall be reputed to be, or the Sheriff shall have reasonable cause to suspect they are, and to seize upon and secure the effects of such Bankrupt, wherever they shall be found in his possession, or in the possession of any other person.

Ten days be-
fore advertise-
ment of final
dividend, As-
signee to file
an account
between him-
self and es-
tate.

VII. And be it enacted, That ten days before a final dividend shall be advertised under any Bankrupt's estate, the Assignee shall fyle in the record of proceedings in such case a Debtor and Creditor account between the said Assignee and such estate, showing also the monies remaining uncollected under such estate and the cause thereof, a copy of which account shall be delivered to any Creditor applying for the same, who shall have proved a debt under such Commission of Bankruptcy, upon his application, and on payment of a reasonable remuneration for the same.

Rights of the
Lessor, &c.
under leases
made to per-
sons after-
wards becom-
ing Bankrupt.

VIII. And be it enacted, That the lessor of any lands or real property under a lease originally made for more than one year, to a Trader subsequently made a Bankrupt, shall be paid his rent in full to the end of the then current yearly term, provided the Commission issue three months before the expiration of the said yearly term, from and out of the net proceeds of the personal effects of the Bankrupt in and upon the said lands and real estate at the date of the said Commission, after payment of the expenses incident thereto, if the other estate
of

of the Bankrupt be insufficient for the payment of the said expenses or part thereof; and at the expiration of the said yearly term the lease shall be cancelled by the Bankruptcy, unless the Assignee shall declare his option to continue the lease according to its tenor, for the benefit of the Creditors, in which case the lessor shall receive the present value of his rent to the end of the term, which said present value shall be calculated on the rent stipulated to be paid by the lease, and the unexpired term of the lease may be sold or otherwise dealt with by the Assignee as the other property of the Bankrupt.

Lease to be cancelled unless the Assignee declare his option to continue it.

IX. And be it enacted, That any Bankrupt entitled to any lease, or agreement for a lease, shall not, if the Assignee accepts the same, be liable to pay any rent accruing after the date of the Commission, or to be sued in respect to any subsequent nonobservance or nonperformance of the conditions, covenants or agreements therein contained: and if the Assignee decline the same, shall not be liable as aforesaid, in case he deliver up such lease or agreement to the lessor or the person agreeing to grant a lease, within fourteen days after he shall have had notice that the Assignee shall have declined as aforesaid; and if the Assignee shall not (upon being required) elect whether he will accept or decline such lease or agreement for a lease, the lessor or person so agreeing as aforesaid, or any person entitled under such lessor or person so agreeing, shall be entitled to apply by petition to the Judge or Commissioner, who may order him to elect and to deliver up such lease or agreement in case he shall decline the same, and the possession of the premises, or may make such other order therein as he shall think fit.

Assignee must elect whether he will accept or decline any lease or agreement for a lease.

Bankrupt discharged from further payment under it if he deliver it up as hereby required.

X. And be it enacted, That if any Bankrupt shall have entered into any agreement for the purchase of any estate or interest in land, the vendor thereof or any person claiming under him, if the Assignee of such Bankrupt shall not (upon being thereto required) elect whether he will abide by and execute such agreement or abandon the same, shall be entitled to apply by petition to the Judge or Commissioner, who may thereupon order him to deliver up the said agreement, and the possession of the premises to the vendor or person claiming under him, or make such other order therein as he shall think fit.

Case of Bankrupt having agreed to purchase land, provided for.

XI. And be it enacted, That the Judge or Commissioner shall have full power and authority to require and compel any witness summoned before him under the thirty-sixth section of the Act first above cited, (which word "witness" shall be held to mean every person, without any exception, whom the said Judge or Commissioner shall believe capable of giving any information concerning the several matters which may arise in any Bankruptcy, or to give evidence in such matter, any law, usage or custom to the contrary thereof notwithstanding,) to produce any and all books, papers, writings, plans or other documents whatsoever which may be in the custody or power of such witness, and may appear to such Judge or Commissioner requisite to the verification of the evidence of such witness, or to the full disclosure and understanding of any matter or thing which such Judge or Commissioner is authorized to inquire into.

Judge or Commissioner may compel the production of papers, &c., in the power of any witness. Who shall be deemed a witness.

XII. And, in amendment of the forty-first section of the said Act, in so far only as regards any person or persons against whom a Commission of Bankruptcy may issue after the passing of this Act—Be it enacted, That at the second general meeting

Sect. 41 of 7 Vict. c. 10, amended, as to persons becoming Bankrupts hereafter.

In what case and how composition may be offered and proceedings upon such offer.

meeting of Creditors, after the Creditors who may not have proved their debts at the first general meeting, but who are then able to prove their said debts, shall have proved the same, and after the Bankrupt shall have taken and subscribed the oath prescribed by the fortieth section of the said Act, such Bankrupt or his friends, (and in case of a Company, one or more of the partners thereof) may offer a composition to the Creditors on the whole debts (including those debts not proved) with security for the payment of the same, and if the majority of the Creditors in number and value, present at such meeting, shall resolve that the offer and security be entertained for consideration, the Judge or Commissioner shall order a meeting to be held not sooner than twenty days and not later than sixty days from the time of the making of such offer of composition for the purpose of deciding on such offer, and the Assignees shall forthwith advertise, in the Canada Gazette, that an offer of composition has been made and entertained and that it will be decided upon at the meeting ordered to be held for that purpose and shall specify the hour, day and place, and also (so far as may be possible) transmit by post letters to each of the Creditors claiming upon the estate, or mentioned in the Bankrupt's Schedule of his Creditors, containing a notice of such resolution and of the day and hour at which and place where the said meeting is to be held, and specifying the offer and security proposed, and giving an abstract of the state of the affairs and of the valuation of the estate, so far as the same can be done, to enable the Creditors to judge of the said offer and security; and if any Assignee fail to perform the duties imposed upon him by this section of this Act, he shall be liable to dismissal from his office, upon Petition to the Judge or Commissioner, and be condemned to pay costs and have no claim for any commission or remuneration, but no such failure or neglect, on the part of the Assignee, shall prevent or retard the composition between the Bankrupt and his Creditors, as hereinafter provided for.

Penalty on assignee failing to perform his duty in such case.

If a certain number of Creditors accept the offer made by the Bankrupt, a bond with sureties to be lodged with Clerk of the Bankrupt Court.

Bankrupt to make a declaration.

Objections may be heard and determined.

Composition may be approved and de-

XIII. And be it enacted, That, if at the meeting ordered to be held for the purpose of deciding upon the offer of composition, at least two-thirds in number and at least four-fifths in value of the Creditors having each proved debts to the amount of twenty pounds or upwards, shall accept the said offer and security, a bond for the payment of the composition, executed by the Bankrupt or his friends, as the case may be, and the proposed surety or sureties shall be lodged with the Clerk of the Bankrupt Court, after having been previously acknowledged before the said Judge or Commissioner by the said Bankrupt and his surety or sureties, and the Bankrupt shall make and subscribe a Declaration, or if required by any Creditor an oath, that he has made a full and fair surrender of his Estate, and has not granted or promised any preference or security, or made or promised any payment, or entered into any secret or collusive agreement, or transaction to obtain the concurrence of any creditor to the said offer and security: and, if the Judge or Commissioner, after hearing any objections that may be made by any of the creditors, shall find that the offer with the security has been duly made, and is reasonable, and has been assented to by at least two-thirds in number and at least four-fifths in value of all the Creditors of the said Bankrupt, who have each proved debts to the amount of twenty pounds or upwards, and if the said Judge or Commissioner be satisfied with the said oath or declaration, he shall approve of the proposed Composition, and shall pronounce a deliverance, discharging the Bankrupt of all debts due by him at the date of the Commission, and from all claims

claims and demands proveable under the Commission, and shall declare the Commission of Bankruptcy at an end, and the Bankrupt re-invested in his estate (reserving always the claims of the Creditors for the said Composition against the Bankrupt and his surety and sureties,) and the Bond executed as aforesaid shall remain of record in the Court of Bankruptcy from which the Commission against the Bankrupt issued; and the deliverance so pronounced shall operate as a complete discharge and acquittance to the Bankrupt in the terms thereof, but shall not release or discharge any person who was partner with the Bankrupt at the time of his Bankruptcy, or who was bound either as a debtor or surety, or otherwise, for any of the debts included in the said Composition, unless such persons be expressly mentioned in the said offer of composition, in order to be discharged thereby: and the said Bond so executed and fyled as aforesaid shall be available to all the creditors mentioned in the Schedule of the Bankrupt's Creditors as well to those who may not have proved as to those who shall have proved their debts; Provided always, that no composition and deliverance as aforesaid shall operate as a discharge, or in any way defeat or affect any debt due by the Bankrupt not included by him in the Schedule of debts due by him; and provided also, that the Judge or Commissioner pronouncing any such deliverance shall determine the amount of compensation to be paid to the Assignee for his services, and the Bankrupt and his surety or sureties shall be jointly and severally liable for the due payment of all the costs of the proceedings in the Court of Bankruptcy, which, if such composition had not been made would have been payable from and out of the Bankrupt's Estate, and also for the due payment of the compensation due to the Assignees: and the Judge or Commissioner shall attach such conditions to the delivery of the Estate to the Bankrupt, as may appear to him to be necessary to secure the punctual payment of the said costs and compensation; and provided also, that if the Judge or Commissioner refuse to sustain the offer of composition, he shall, in his judgment respecting the same, specify the grounds of refusal and an appeal in the usual course shall lie at the instance of any of the Creditors or of the Bankrupt himself to the Court of Review.

liverance pronounced.

Effect of such deliverance.

Proviso as to debts not in the Schedule.

Proviso as to fees of assignee and costs.

Conditions to be attached to deliverance.

Proviso: reasons of disallowing offer to be assigned.

XIV. And be it enacted, That the forty-second section of the said Act shall be and is hereby repealed, and it shall be lawful for the Governor from time to time to appoint in each District of this Province a proper person to be and act as Clerk in all matters of Bankruptcy, and under all Commissions of Bankruptcy issued in such District; and the Clerk who shall have been appointed before this Act shall come into force, in any case of Bankruptcy, shall forthwith deliver over all papers filed in the course of the proceedings in such case or in any way relating to the same and in his custody, to the Clerk to be appointed in and for the said District, and may be committed by the Judge or Commissioner for contempt if he shall fail to obey any order made in that behalf; and it shall be the duty of such Clerk to keep a record of all regular meetings of Creditors in every case of Bankruptcy in his District, and of all the proceedings thereat, and to preserve and keep all papers duly filed in the course of the proceedings, and perform all such other duties appertaining to his office as shall be prescribed by the Judge or Commissioner, (or a majority of them if there be more than one,) and the record of the proceedings in each case and of the Certificate of Discharge, and copies of all such papers or proceedings in the custody of the said Clerk, or any part thereof, signed by him and certified by the Judge or Commissioner (or one of the Commissioners)

Sect. 42, of 7 Vict. c. 10, repealed, and a Clerk to be appointed to act instead of the Clerks appointed under the said section; and to receive papers, &c from them.

His duties.

Use of certified copies of proceedings in evidence.

Commissioners) shall be deemed authentic and shall be admitted as evidence, *primâ facie*, of the facts therein stated and contained, in all Courts in this Province.

Acts of one Judge or Commissioner in any case to bind the rest in the same District.

XV. And be it enacted, That in every District for which there shall be more than one Judge or Commissioner authorized to issue Commissions of Bankruptcy, any official act done, or any judgment given, or order made in any case in Bankruptcy, by one or more of such Judges or Commissioners shall bind the rest, and shall not be subsequently set aside, altered or inquired into by them or any of them, or otherwise than by the proper Court of Review; but the Judges or Commissioners sitting in each case at any time, shall take up and continue the proceedings therein, from the point to which they shall have been brought by the Judges or Commissioners who shall have then last sat in such case.

Recital.

XVI. And whereas there are cases in Bankruptcy commenced under the Ordinance of Lower Canada concerning Bankrupts repealed by the Act hereby amended, by the Commissioners of Bankrupts appointed to execute the same, and also in cases commenced by the said Commissioners under the said Act, in which all the proceedings prescribed by the said Ordinance and Act have been had and completed, save and except the performance of certain Ministerial Acts by, or the affixing of the signatures of such Commissioners to the Certificates authorized by the said Ordinance and Act, and in respect to which Ministerial Acts and affixing of signatures the Commissioners of Bankrupts under the said Act have no power or jurisdiction, and the said Commissioners under the said Ordinance by reason of their removal from office and by lapse of time have been unable to perform such Ministerial Acts or to affix such signatures: Be it enacted, That it shall be lawful for any person having heretofore held the office of Commissioner of Bankrupts, under the said Ordinance, to do and perform any Ministerial Acts which may be necessary to complete and terminate such proceedings, and to grant and affix his signature to such Certificates in all cases in which such person (having then power in his discretion so to do) intended to perform, or would have performed such Ministerial Act, or intended to grant and would have granted, or affixed his signature to such Certificate and Certificates before such removal from office or lapse of time, and all such Ministerial Acts and Certificates wherever made and executed within the limits of Lower Canada, shall be good and valid, and shall avail in like manner and as if the same had been performed or made and granted previously to such removal from office of such person or to such lapse of time, and shall be confirmed by the Court of Review where confirmation may be required.

Certain merely Ministerial Acts may be performed by persons having been Commissioners of Bankrupts although they may have ceased to be so.

Contempt of Court how punished.

XVII. And be it enacted, That the Judges or Commissioners sitting in Bankruptcy, shall have full power to punish by attachment and commitment to prison, all acts of wilful neglect or refusal to obey any lawful order of any Judge or Commissioner, so sitting.

Punishment of persons insulting Judge or Commissioner, &c.

XVIII. And be it enacted, That if any person shall wilfully insult any Judge or Commissioner, during his sitting or attendance in Court, or shall wilfully interrupt the proceedings of any Bankrupt Court, the Judge or Commissioner may impose on such offender, a fine not exceeding ten pounds currency, and in default of payment, may, by warrant under his hand and seal, cause such fine to be levied by distress and sale of the goods and chattels of the offender, and in default of sufficient

sufficient distress, may commit such offender to gaol, for a term not exceeding one calendar month.

XIX. And be it enacted, That the Common Gaols in the several Districts of this Province shall be the Prisons of the Courts of Bankruptcy and of Review in and for the said Districts respectively; and that all Sheriffs, Gaolers and their Deputies and Officers, Constables and Peace Officers shall aid, assist and obey the said Courts, in the exercise of their jurisdiction when thereunto required.

Common Gaols to be the prisons of the Bankrupt Courts.

XX. And be it enacted, That if any Bankrupt, after the passing of this Act, shall be found not to have kept and produced proper books of account exhibiting from time to time the state of his affairs and business, in the manner and form in which such books of account are kept by Traders using the same calling or business as such Bankrupt, he shall not be deemed to have made a full discovery of his estate and effects; and the want or non-production of such books of account shall be a valid cause for the disallowance or non-confirmation of his Certificate.

A Bankrupt must have kept regular books to entitle him to his Certificate.

XXI. And be it enacted, That it shall not be lawful for any Judge or Commissioner to grant a Certificate for the discharge of any Bankrupt against whom a Commission of Bankruptcy shall issue after the passing of this Act, unless it be proved to the satisfaction of such Judge or Commissioner that four-fifths in number and in value of the Creditors of the Bankrupt who shall respectively have proved debts under the Commission to the value of twenty pounds or upwards, have consented to the granting of such Certificate, and the proof of such consent shall be in writing.

Certificate not to be granted to a Bankrupt, unless assented to by four-fifths in number and value of the Creditors proving debts over £20.

XXII. And be it enacted, That whenever any Commission of Bankruptcy shall have issued in any part of this Province, or whenever any Bankrupt shall be refused his Certificate by any Judge or Commissioner, under any Commission remaining in force, then and in such case it shall not be lawful for any other Judge or Commissioner in any part of this Province to issue any second or other Commission until the said first Commission shall be superseded, nor to grant any Certificate to such Bankrupt on such second or other Commission, if issued before the passing of this Act.

No new Commission to issue or be acted upon until the former Commission be superseded or Certificate granted.

XXIII. And be it enacted, That any Bankrupt who shall refuse or wilfully neglect to execute all such deeds and writings, to indorse all such bills, notes or negotiable papers, or to draw such checks and orders for monies deposited, or to do any other such lawful act or thing as the Assignee of the estate shall, at any time, reasonably require, and which may be necessary for enabling him to demand, recover and receive all the estate and effects of such Bankrupt, shall be held not to have delivered up all that part of his estate in his possession, custody or power, and shall be deemed guilty of felony, and shall be liable to be punished in the manner in and by the fifty-first section of the said Act provided.

Punishment of Bankrupts refusing to execute deeds, &c. required by the assignee.

XXIV. And in amendment of the thirty-third section of the said Act—Be it enacted, That all sales of the real property of any Bankrupt shall be made at the place where the sittings of the Judge or Commissioner are held, or at such other place as the said Judge or Commissioner shall appoint; and that the place of sale

Place of sale of Bankrupt's real property.

sale shall be mentioned in every notice of sale of the real estate of a Bankrupt, nor shall any such property be sold until at least four months after notice of the place of sale shall have been so given.

Titles to estates sold under Commission.

XXV. And be it enacted, That no title to any real or personal estate sold or to be sold under any Commission, or under any order in Bankruptcy, shall be impeached by the Bankrupt, or any person claiming under him, in respect of any defect in the suing out of the Commission, or in any of the proceedings under the same; and that no such title after this Act shall come into operation, shall be so impeached for any other cause, unless the Bankrupt or person claiming under him as aforesaid shall have commenced proceedings to supersede the said Commission and duly prosecuted the same, within twelve calendar months from the issuing thereof.

Persons delivering property of the Bankrupt, or paying debts due to him to his Assignee, indemnified.

XXVI. And be it enacted, That all persons from whom the Assignees shall have received any real or personal estate either by judgment or decree, are hereby discharged in case the Commission be afterwards superseded, from all demands which may thereafter be made in respect to the same by the person or persons against whom such Commission issued and all persons claiming under him or them; and all persons who shall, without action or suit *bonâ fide* deliver up possession of any real or personal estate to the Assignee, or pay any debt claimed by him, are hereby discharged from all claims of any such person or persons as aforesaid in respect to the same, or any persons claiming under him or them; unless proceedings to supersede the Commission have been commenced and proceeded in before such payment or settlement of account.

Sec. 72, of 7 Vict. c. 10, repealed.

XXVII. And be it enacted, That the seventy-second section of the Act first above cited shall be and is hereby repealed.

The Bankrupt may be examined either before or after obtaining his Certificate; and punished if he refuses to answer or to subscribe his examination.

XXVIII. And be it enacted, That it shall be lawful for the Judge or Commissioner, by writing under his hand, to summon any Bankrupt before him whether such Bankrupt shall have obtained his Certificate or not; and in case he shall not appear at the time appointed (having no lawful impediment made known and allowed at such time) it shall be lawful for the Judge or Commissioner, by warrant under his hand and seal, to authorize and direct any person or persons he shall think fit to apprehend and arrest such Bankrupt and bring him before the Judge or Commissioner; and upon the appearance of such Bankrupt, or if he be present at any meeting of his Creditors, it shall be lawful for the Judge or Commissioner to examine him upon oath, either orally or by interrogatories in writing, touching all matters relating to his trade, dealing or estate, or which may tend to disclose any secret grant, conveyance or concealment of his lands, tenements, goods, money or debts, and to reduce his answers to writing, and such examination so reduced to writing shall be signed and subscribed by the said Bankrupt, and if the Bankrupt shall refuse to answer any question put to him by the Judge or Commissioner touching any of the matters aforesaid, or shall not fully answer to the satisfaction of the Judge or Commissioner any such question, or shall refuse to sign and subscribe his examination so reduced to writing as aforesaid (not having any lawful objection allowed by the said Judge or Commissioner,) it shall be lawful for the said Judge or Commissioner, by warrant under his hand and seal, to commit him to the
Common

Common Gaol of the District, there to remain without bail until he shall submit himself to the said Judge or Commissioner, to be sworn and full answers to make to the satisfaction of the said Judge or Commissioner to such questions as shall be put to him, and shall sign and subscribe his examination.

XXIX. And be it enacted, That it shall be lawful for the Judge or Commissioner, in maner aforesaid to summon or cause to be brought before him, all persons connected with or related to any Bankrupt in whatever degree, the wife excepted, any law, usage or custom to the contrary notwithstanding, and in manner aforesaid to examine them or any of them for the finding out and discovery of the estate, goods, chattels or money or debts due to such Bankrupts of concealed, kept or disposed of by them in their own person, or by their own act, or by the Bankrupt or any other person; and they shall, for refusing to appear or to be sworn, or to answer, or to sign or subscribe their examination, or for not fully answering to the satisfaction of the Judge or Commissioner, be respectively liable to the penalty and constraint to which the Bankrupt is liable in the like case.

How any of the Bankrupt's relatives, except his wife, may be examined, and punished for not answering, &c.

XXX. And be it enacted, That any person who at the issuing of the Commission shall be surety or liable for any debt of the Bankrupt, or bail for the Bankrupt either to the Sheriff or to the action, if he shall have paid the debt, or any part thereof in discharge of the whole debt, (although he may have paid the same after the Commission issued) shall, if the Creditor shall prove the debt under the Commission, be entitled to stand in the place of such Creditor, as to the dividend and all other rights under the said Commission, which such Creditor possessed or would be entitled to in respect of such proof; or if the Creditor shall not have proved under the Commission, such surety or person liable or bail shall be entitled to prove his demand in respect to such payment, as a debt under the Commission, (not disturbing the former dividends,) and may receive dividends with the other Creditors, although he may have become such surety, liable or bail as aforesaid, after an act of Bankruptcy committed by such Bankrupt; Provided, that such person had not, when he became such surety, bail, or so liable as aforesaid, notice of any act of Bankruptcy by such Bankrupt committed.

Rights of persons having paid any debt of the Bankrupt as his Bail, &c.

Proviso.

XXXI. And be it enacted, That no action for any dividend shall be brought against the Assignee of the estate of any Bankrupt, by any Creditor who shall have proved under the Commission; but if the Assignee shall refuse to pay any such dividend, the Judge or Commissioner may, on petition, order the payment thereof, with interest for the time it shall have been withheld, and the costs of the application; and if such order be not forthwith complied with, the Judge or Commissioner may, by his warrant, commit such Assignee to the Common Gaol of the District, until the order be obeyed, or the money made by distress and sale of the goods and chattels of such Assignee, which distress and sale may be made under the warrant of the Judge or Commissioner: Provided that in that part of the Province formerly Upper Canada, no Assignee shall be appointed who shall not be a resident householder in the District in which the Commission of Bankruptcy shall be issued.

Remedy against Assignee not paying dividends declared.

XXXII. And be it enacted, That if any Bankrupt shall, before the issuing of the Commission, have contracted any debt payable upon a contingency which shall

Debts depending on a contingency, how proveable, &c.

shall not have happened before the issuing of such Commission, the person with whom the debt has been contracted may, if he think fit, apply to the Judge or Commissioner to order the Assignee to retain the same in his hands until the arrival of such contingency, or until it shall be ascertained that it cannot arrive, and such person may, after such contingency shall have happened, prove in respect of such debt, and receive dividend with the other creditors, not disturbing any former dividends: Provided such person had not, when such debt was contracted, notice of any act of Bankruptcy by such Bankrupt committed; and if it shall be ascertained that such contingency cannot arrive, the sum shall be applied for the general benefit of the Creditors, in the same manner as other assets of the Bankrupt's estate.

Proviso as to notice.

If the contingency cannot arrive.

Creditors having suits pending against the Bankrupt must relinquish the same before proving, &c.

And the Bankrupt must be released if in Gaol at the suit of the Creditor proving.

Effect of proving.

Proviso as to costs.

Proviso, if the Commission be afterwards superseded.

XXXIII. And be it enacted, That no Creditor who has brought any action or instituted any suit against any Bankrupt in respect of a demand prior to the Bankruptcy, or which might have been proved as a debt under the Commission against such Bankrupt, shall prove a debt under such Commission, or have any claim entered upon the proceedings under such Commission, without relinquishing such action or suit; and in case such Bankrupt shall be in prison or custody at the suit of or detained by such Creditor, he shall not prove or claim as aforesaid, without giving a sufficient authority in writing for the discharge of such Bankrupt; and the proving or claiming a debt under a Commission by any Creditor, shall be deemed an election by such Creditor to take the benefit of such Commission, with respect to the debt so proved or claimed: Provided that such Creditor shall not be liable to the payment to such Bankrupt or the Assignee of his estate, of the costs of the action or suit so relinquished by him; and that where any such Creditor shall have brought any action or suit against such Bankrupt, jointly with any person or persons, his relinquishing such action or suit against the Bankrupt shall not affect such action or suit against such other person or persons: Provided also, that any Creditor who shall have so elected to prove or claim as aforesaid, may, if the Commission be afterwards superseded, proceed in the action as if he had not so elected, and in bailable action or actions in which a Writ of *Capias ad Respondendum* may issue in Lower Canada, shall be at liberty to arrest the Defendant *de novo*, if he has not put in bail below or perfected bail above in Upper Canada or bail to the action in Lower Canada, or if the Defendant has put in or perfected such bail shall have recourse against such bail by requiring (in Upper Canada) the bail below to put in and perfect bail above within the first eight days in Term, after notice in the Canada Gazette of the superseding such Commission, and by suing, in either portion of the Province, the bail upon the recognizance, if the condition thereof be broken.

If any debt proved in the ordinary manner be disputed by the Assignee or Creditors, the Judge or Commissioner may hear evidence and decide.

XXXIV. And be it enacted, That whenever it shall appear to the Assignee, or to two or more Creditors who have each proved debts to the amount of twenty pounds or upwards, that any debt proved under the Commission, on authentic or notarial deed or otherwise, or for any amount, is not justly due either in whole or in part, such Assignee or Creditors may make representation thereof to the Judge or Commissioner, and it shall be lawful for the said Judge or Commissioner to summon before him and examine upon oath any person who shall have so proved as aforesaid, together with the Bankrupt, and any person whose evidence may appear to the Commissioner to be material, either in support of or in opposition

to

to any such debt; any law, usage or custom to the contrary notwithstanding: and if the Judge or Commissioner, upon the evidence given upon both sides, or (if the person who shall have so proved as aforesaid shall not attend to be examined, having been first duly summoned, or notice having been left at his last place of abode) upon the evidence adduced by the Assignee or Creditors as aforesaid, shall be of opinion that such debt is not due either wholly or in part, the said Commissioner shall be at liberty to expunge the same either wholly or in part from the proceedings: Provided, that the Assignee or Creditors requiring such investigation shall, before it is instituted, sign an undertaking, to be filed in the proceedings, to pay such costs as the Judge or Commissioner shall adjudge, to the Creditor who has proved such debt as aforesaid, such costs to be recovered by petition: Provided also, that either party may appeal against the determination of the Judge or Commissioner to the Court of Review.

Proviso as to costs of the contestation.

Proviso: appeal given.

XXXV. And be it enacted, That, in that part of the Province of Canada heretofore called Upper Canada, if, at any time within one month after any Trader shall have given a confession of judgment, or a Warrant of Attorney to confess Judgment, or a *cognovit actionem*, a Commission of Bankruptcy shall issue against such Trader, then such Confession, Warrant of Attorney or *cognovit actionem*, shall be deemed to have been obtained by fraud, and shall be void as against the Assignee under such Commission.

Confessions of Judgments, &c., given in U. C. within a certain time before Bankruptcy to be void.

XXXVI. And be it enacted, That whenever any Circuit Judge or Commissioner in his discretion may see fit, it shall be lawful for such Judge or Commissioner to authorize and direct, and he is hereby, on reasonable cause shewn, required to authorize and direct any and all Assignees to institute any and all actions or suits at law or other proceedings, either at law or in equity, necessary to be instituted or taken in the name of such Assignee or Assignees, although the said proceedings may have for their object solely the benefit and interest of one or other particular Creditor or Creditors: Provided always, that such Creditor requiring any action, proceedings or suit to be instituted, shall give such reasonable security for the costs of the said suit, action or proceedings as the said Judge or Commissioner may direct or order.

Commissioner may direct Assignees to institute actions at law, &c. though only part of the Creditors be interested.

Proviso: costs to be secured.

XXXVII. And be it enacted, That it shall be the duty of the Circuit Judges, acting as Commissioners of Bankrupts for each of the said Districts of Quebec and Montreal, under this Act, forthwith to prepare general Rules and Orders for regulating the forms of proceedings and the practice to be observed in matters of Bankruptcy, not otherwise provided for by this Act, or by the Act hereby amended, and it shall also be their duty forthwith to prepare a Tariff of Fees and Costs, to be allowed and taxable on all matters coming before them; and the said Rules and Orders and the said Tariff shall be submitted to the Judges of the Court of Queen's Bench for the said District of Quebec or of Montreal, for which such Circuit Judges may have been appointed, for the approval and sanction of the said Judges; and it shall be the duty of the said Judges of the said Court of Queen's Bench for each District respectively, and they are hereby required, within ten days from and after the time at which the said Rules and Tariff may be submitted to them by the said Circuit Judges, to approve of or reject the same; and the said Judges of the said Court of Queen's Bench shall have power, if they see fit

Circuit Judges acting as Commissioners of Bankrupts in the Districts of Quebec and Montreal, to prepare general rules and orders, &c. and tariff. To be approved or rejected by Court of Q. B.

Court of Q. B. may modify such rules, tariff, &c.

When confirmed they shall have force of law.

fit, to change, alter or modify the said Rules and Tariff, or either of them, when so submitted to them, and also at all other times whatsoever, and the said Rules and Orders, when so confirmed by the said Judges of the Court of Queen's Bench, shall become and be Rules of Practice for the regulation of all matters in Bankruptcy, and the Costs so to be fixed as aforesaid shall be taxable by the said Circuit Judges on all proceedings to which the same may respectively apply, and shall and may be recovered as provided for by the seventy-first section of the Act hereby amended.

The District Judges in the District of Gaspé, to be Commissioners of Bankrupts.

XXXVIII. And whereas doubts have arisen as to whether the District Judges in the District of Gaspé have jurisdiction in matters of Bankruptcy; for the removal of such doubts—Be it enacted, That each of the said District Judges shall be, and he is hereby declared to be, in virtue of his office as such District Judge, a Commissioner of Bankrupts in and for the said District; and as such shall have such and the same jurisdiction, power and authority, as are possessed, exercised or enjoyed by any Commissioner of Bankrupts or Circuit Judge in that part of this Province called Lower Canada, by virtue of the said Act hereinbefore in part recited, or of this or any other Act or Law whatsoever.

Duty of persons having in their charge records, &c., relating to Commissions of Bankruptcy issued against estate of persons residing in the District of Gaspé.

XXXIX. And be it enacted, That it shall be the duty of all and every person and persons having in his or their charge, custody or possession, any records or papers relating to any Commission of Bankruptcy, heretofore issued by competent authority, against the estate and effects of any person or persons residing in the said District of Gaspé, or to the proceedings had under such Commission, forthwith to transmit the same to the District Judge residing in the County in which the Bankrupt or Bankrupts resided at the time when such Commission was issued; and such District Judge is hereby authorized and required to receive the same, and thereupon to appoint a Clerk into whose custody he shall transfer the records and papers relating to such case, on his signing a declaration in writing that he will faithfully discharge his duty as such Clerk; and thenceforward such and the same proceedings may and shall be had, and the same jurisdiction, whether original or appellate, may and shall be exercised under and in pursuance of and in relation to such Commission, and in such and the same manner and form precisely as the same would, could or might have been had or exercised respectively in virtue of the said Act hereinbefore in part recited, if the said District of Gaspé had continued after the passing of the said Act to form part of the District of Quebec, and the jurisdiction, power and authority hereby given, had been expressly given by the said Act to the said District Judges.

Court of Queen's Bench at Quebec to be a Court of Review in cases of Bankruptcy in Gaspé.

XL. And inasmuch as the said District Judges are members of Her Majesty's Court of Queen's Bench for the District of Gaspé, and it is therefore expedient to provide some other tribunal to which appeals may lie from their judgments, adjudications and orders in matters of Bankruptcy: Be it therefore enacted, That Her Majesty's Court of Queen's Bench for the District of Quebec shall be and the same is hereby declared to be the Court of Review in all cases and matters of Bankruptcy now pending as aforesaid, or which may arise hereafter within the said District of Gaspé, and as such shall have such and the same powers, jurisdiction and authority, in all such cases and matters respectively, as if the same had

had arisen or were to arise within the District of Quebec ; any law, usage or custom to the contrary thereof in any wise notwithstanding.

XLI. And be it enacted, That the eighty-fifth section of the Act first above cited, shall be and is hereby extended to the words and expressions used in this Act, and shall serve for the due interpretation thereof.

Sec. 85, of 7
Vict. c. 10, ex-
tended to
words used in
this Act.

XLII. And be it enacted, That this Act shall be in force until the first day of June next, and from thence until the end of the then next ensuing Session of Parliament, and no longer.

Duration of
this Act.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. XXXI.

An Act for the further prevention of Smuggling.

[9th June, 1846.]

WHEREAS it is expedient to provide for the division of the proceeds of forfeitures incurred by offenders against the Revenue Laws, in such manner as may be best calculated to prevent such offences: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, And it is hereby enacted by the authority of the same, That the proceeds of any forfeiture incurred by the contravention of any Act or Law relating to the Customs or to the Collection of the Revenue, or so much of the proceeds of such forfeiture as shall be then subject to the disposal of the Provincial Legislature, may be divided between the Collector of the Port where the seizure shall have been made, the Officer or person making the same, and any person or persons giving information or otherwise aiding in effecting the seizure or obtaining the condemnation of the goods seized,—in such proportions as the Governor, Lieutenant Governor, or person administering the Government of this Province, acting by the advice of the Executive Council thereof, shall in any case or class of cases direct and appoint; any Act or Law to the contrary notwithstanding.

Preamble.

Proceeds of goods seized and forfeited to be divided as the Governor or in Council shall appoint.

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A N N O N O N O

V I C T O R I Æ R E G I N Æ.

C A P. X X X I I.

An Act to make provision for confirming certain Acts of Registrars in that part of this Province formerly Upper Canada.

[9th June, 1846.]

WHEREAS by an Act passed during the present Session, intituled, *An Act to consolidate and amend the Registry Laws of that part of this Province which was formerly Upper Canada*, it is provided that there shall be a Register appointed to be resident in each and every County of Upper Canada, whose appointment shall be under the Great Seal of the Province ; And whereas the present Commissions of Registers are not under the Great Seal ; And whereas some delay may take place in issuing new Commissions to the Registers under the said Act, and divers Acts have been and may be done by the Registers or their Deputies, under the former Law, which should be confirmed and preserved as effectual : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That, notwithstanding any thing in the said recited Act contained, all Entries, Certificates, Registries, and other lawful acts made or done by any Register or his Deputy, in any County in that part of this Province formerly Upper Canada, at any time before new Commissions shall be issued under the authority of the said recited Act, shall have the like power and effect, to all intents and purposes, as if the said recited Act had never been passed.

Preamble.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. XXXIII.

An Act to provide for the accommodation of the Courts of Superior Jurisdiction in Upper Canada.

[9th June, 1846.]

WHEREAS it is necessary to make provision for the due accommodation of the Superior Courts of Law and Equity in Upper Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That there be granted to Her Majesty the sum of six thousand pounds, to be raised by Debentures in manner hereinafter mentioned, to enable Her Majesty to pay that sum to the Law Society of Upper Canada, so soon as that Society shall enter into a covenant to the satisfaction of the Governor in Council, to provide fit and proper accommodation for the Superior Courts of Law and Equity, for all time to come, at the seat of the said Society, without further charge and expense to this Province.

Preamble.

£6,000 granted to Her Majesty, to be raised by Debentures.

II. And be it enacted, That it shall and may be lawful for the Governor of this Province to authorize the issue of Debentures for the sum of six thousand pounds, in such form and for such separate sums as may be found convenient; such Debentures to be at a rate of interest not to exceed six per centum per annum, and, redeemable within fifteen years.

Governor may issue Debentures for the said sum, at six per cent.

III. And be it enacted, That if any person or persons shall forge or counterfeit any Debenture to be issued under the authority of this Act, or any stamp, indorsement or writing thereon or therein, or shall demand to have such counterfeited debenture, or any Debenture with such counterfeited writing or other indorsement thereon or therein, to be exchanged for money by any person or persons, who shall be obliged or required to exchange the same, or by any other person or persons whomsoever, knowing the Debenture so tendered or the indorsement or writing thereon or therein to be so forged or counterfeited, with intent to defraud Her Majesty, Her Heirs and Successors, or the person appointed to pay the same or any of them, or any other person or persons, body or bodies politic or corporate,

Penalty on persons counterfeiting Debentures, &c.

corporate, then every person so offending being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer such punishment as shall be adjudged in that behalf, not exceeding imprisonment at hard labour in the Provincial Penitentiary for seven years.

Certain sums to be levied on process, &c. for payment of interest on Debentures.

IV. And be it enacted, That for the purpose of paying the interest on such Debentures and liquidating the principal thereof, there be levied, imposed and collected on the proceedings in Law and Equity, the sums set forth in that behalf in the Schedule to this Act annexed.

Certain Officers of Courts to collect sums imposed on Writs, &c., to render accounts thereof to Inspector General, on oath.

V. And be it enacted, That it shall be the duty of the Clerk of the Crown and Pleas and his several Deputies, and of the Registrar of the Court of Chancery, and of the Clerk of the Court of Appeals in that part of this Province called Upper Canada, severally to collect the sums imposed on the Writs, Process and proceedings mentioned in the said Schedule, and to render half yearly accounts of the same to the Inspector General of this Province duly verified on oath to be taken before any Judge or Justice of the Peace, and to pay the same at such times as shall be directed by the Governor in Council, to the account of or to the Receiver General; and that the officer rendering such account and making such payment shall be entitled to charge and receive four per centum on the sums paid over by him.

A certain portion of a lot of land in the City of Toronto to be sold for the payment of Debentures.

VI. And be it enacted, That it shall be lawful for the Governor of this Province to authorize and direct that a portion, not to exceed two acres, of that lot of land in the City of Toronto formerly known and designated as Simcoe Place, and bounded by Front Street, John Street, Market Street, and Grave Street, according to the plan in the Surveyor General's Office, shall be sold at public auction, for the best price that can be obtained for the same, payable in money at a credit of not more than five years; and that the proceeds of such sale or sales, as well interest as principal, shall be applicable and applied to the satisfaction of the Debentures to be issued under the authority of this Act.

Governor may by Proclamation call in any of the Debentures.

VII. And be it enacted, That it shall and may be lawful for the Governor of this Province at any time by Proclamation to call in any of the said Debentures, although the time therein named for the payment thereof may not have arrived, in order that the same may be paid off; and that at the expiration of six months from the date of such Proclamation, all interest on the Debentures called in for payment as aforesaid shall cease.

Accounts to be laid before the Legislature at each Session.

VIII. And be it enacted, That accounts in detail of all monies received and paid, and of the Debentures issued and the interest thereon, and of the redemption of the whole or any part of such Debentures, and of all expenses attending the collection and payment of the sums of money collected and received by authority of this Act, shall be laid before the Legislature of this Province at each Session thereof.

Accounting clause.

IX. And be it enacted, That the due application of the monies so to be raised shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall be graciously pleased to direct.

X.

X. And be it enacted, That the words "Governor of this Province," or "Governor," whenever the same occur in this Act, shall be construed to mean the Governor, Lieutenant Governor, or Person administering the Government of this Province.

Meaning of
certain words.

SCHEDULE

ON PROCEEDINGS IN THE QUEEN'S BENCH.

On every Writ of *Capias ad Respondendum*, *alias*, or *pluries*,—or of Summons *alias*, or *pluries*,—and every other original Writ or Process, Writ of *Mandamus*, or other Prerogative Writ, one shilling and three pence.

On passing every Record of *Nisi Prius*, one shilling and three pence.

On every Judgment entered, two shillings and six pence.

ON PROCEEDINGS IN EQUITY.

On filing every Bill, five shillings.

ON PROCEEDINGS IN APPEAL.

On every Writ of Appeal from the Court of Queen's Bench or Chancery, five shillings.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. XXXIV.

An Act to consolidate and amend the Registry Laws of that part of this Province which was formerly Upper Canada.

[9th June, 1846.]

WHEREAS it is expedient to revise the several Laws now in force respecting the Public Registering of Deeds, Conveyances, Wills, and other incumbrances which may affect any Lands, Tenements or Hereditaments, in Upper Canada; And whereas, also, it is desirable that some provision should be made for the Registering of Judgments: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act of the Legislature of the late Province of Upper Canada, passed in the thirty-fifth year of the Reign of His late Majesty King George the Third, and intituled, *An Act for the Public Registering of Deeds, Conveyances, Wills, and other Incumbrances which shall be made, or may affect any Lands, Tenements or Hereditaments, within this Province*; and the Act of the said Legislature, passed in the thirty-seventh year of the same Reign, and intituled, *An Act to supply the want of enrolment of Deeds of Bargain and Sale*; and the Act of the said Legislature passed in the fifty-eighth year of the same Reign, and intituled, *An Act to provide for the Enregistering of Deeds, Conveyances, Wills, and other Incumbrances, which may affect any Lands, Tenements and Hereditaments, the same being executed in the United Kingdom of Great Britain and Ireland, or in any of Her Majesty's Colonies, and to amend an Act passed in the thirty-fifth year of His Majesty's Reign, intituled, 'An Act for the Public Registering of Deeds, Conveyances, Wills, and other Incumbrances, which shall be made, or may affect any Lands, Tenements or Hereditaments, within this Province';* and the Act of the said Legislature, passed in the fourth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act concerning the release of Mortgages*; shall be and the said Acts are hereby repealed.

Preamble.

U. C.
35 Geo. 3. c. 5.

U. C.
37 Geo. 3. c. 8.

U. C.
58 Geo. 3. c. 8.

U. C.
4 Will. 4. c. 16.
Repeal.

II. And be it enacted, That no proceeding, matter or thing, had or done under and by virtue of the above repealed Acts, shall be altered or rendered invalid by the passing of this Act.

Proceedings under the said Acts to remain valid.

III.

A Registry Office to be kept in each County in Upper Canada.

III. And be it enacted, That there be a Registry Office kept in each and every County in Upper Canada by a Register appointed as hereinafter provided, being resident therein ; and that when and so often as any new County shall be formed in Upper Canada, it shall and may be lawful for the Governor of this Province to appoint a proper and sufficient person to hold and perform the duties of the Office of Register therein, and also in like manner to fill up any vacancy or vacancies which may occur either by death, resignation, removal, or forfeiture of any of the Registers heretofore or hereafter to be appointed for any such County : Provided always, that all such appointments shall be made under the Great Seal of this Province, and some convenient place in the County shall be named in the Commission, where the office of the Register shall be held until otherwise ordered.

Proviso.

A Register to be appointed in each County.

IV. And be it enacted, That there shall be a Register appointed, to be resident in each and every County in Upper Canada, who shall keep an office in the same at the place named in his Commission, or at such other place as may be appointed by proclamation, according to the provisions of this Act.

Registers may appoint Deputies.

V. And be it enacted, That it shall and may be lawful for any Register appointed, or hereafter to be appointed, for any County in Upper Canada, from time to time, and so often as such Register shall think fit, to nominate a Deputy in his office, and to remove him, and appoint another in his place, whenever he may think it necessary to do so : Provided always, that in case of the death, resignation, removal or forfeiture of office of any Register, it shall and may be lawful for the Deputy Register for the time being to do and perform all and every act, matter and thing, necessary for the due execution of the said office, until a new appointment shall be made.

Proviso.

What deeds and Instruments may be registered.

VI. And be it enacted, That from and after the confirmation of any Lands to any person or persons, by grant from the Crown, a memorial of all Deeds and Conveyances which shall be made and executed, and of all Wills and Devises in writing made or to be made and published, when the Devisor or Testator shall die, after making and publishing of the same, of or concerning and whereby any lands, tenements or hereditaments, in any County or Riding of that part of this Province called Upper Canada, may be in anywise affected in law or equity, may, at the election of the party or parties concerned, be registered in such manner as is hereinafter directed ; and that every Deed and Conveyance that shall, at any time after any memorial is so registered, be made and executed of the lands, tenements or hereditaments, or any part thereof, comprised or contained in any such memorial, shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration, unless such memorial be registered as by this Act is directed, before the registering of the memorial of the Deed or Conveyance under which such subsequent purchaser or mortgagee shall claim ; and that every devise by Will of the lands, tenements or hereditaments, or of any part thereof, mentioned and contained in any memorial registered as aforesaid, and that shall be made and published after the registering of such memorial, shall be adjudged fraudulent and void against a subsequent purchaser or mortgagee for valuable consideration, unless a memorial of such Will be registered in such manner as herein-after directed ; and a memorial of any further mortgage or mortgages (whether legal or equitable) to a first mortgagee or mortgagees, shall in like manner be registered

Deeds not registered to be void as against subsequent purchasers whose Deeds are registered.

The same as to devises.

And as to further mortgages to a first mortgagee.

registered before it can or shall prevail against a second mortgagee of the whole or any part of the lands, tenements, hereditaments and premises comprised in the first mortgage.

VII. And be it enacted, That all and every memorial or memorials to be entered and registered, shall be put into writing, and brought or transmitted to the said office, and in case of Deeds and Conveyances, shall be under the hand and seal of some or one of the Grantors, or some or one of the Grantees, his or their Heirs, Executors or Administrators, Guardians or Trustees, attested by two witnesses, one whereof to be one of the witnesses to the execution of such Deed or Conveyance, which witness shall, upon oath (except in cases otherwise provided for by this Act) before the said Register or his Deputy, or before any Judge of Her Majesty's Court of Queen's Bench, or any Judge of a District Court, or any Commissioner of the said Court of Queen's Bench in Upper Canada, prove the signing and sealing of such memorial, and the execution of the Deed or Conveyance mentioned in such memorial; and in case of Wills, the memorial shall be under the hand and seal of some or one of the Devisees, his or their Heirs, Executors or Administrators, Guardians or Trustees, attested by two witnesses, one whereof shall, upon oath before either of the parties aforesaid, prove the signing and sealing of such memorial, which respective oaths the said several parties hereinbefore mentioned are hereby empowered to administer, and shall endorse a certificate thereof on every such memorial and sign the same.

Memorials must be put in writing and brought to the office.

On what evidence they shall be registered.

VIII. And be it enacted, That every memorial of any Deed, Conveyance or Will shall contain the day of the month and the year when such Deed, Conveyance or Will bears date, and the names and additions of all the parties to such Deed, Conveyance or Will, or the Devisor or Testatrix of such Will, (as mentioned or set forth in such Deed, Conveyance or Will,) and of all the witnesses to such Deed, Will or Conveyance, and the places of their abode, and shall express or mention the lands, tenements or hereditaments contained in such Deed, Will or Conveyance, and the names of all the Townships or Parishes within the said County or Counties, Riding or Ridings, where any such lands, tenements or hereditaments are lying or being, that are given, granted, conveyed, devised, or any way affected or charged by any such Deed, Will or Conveyance, in such manner as the same are expressed or mentioned in such Deed, Will or Conveyance, or to the same effect; and that such Deed, Conveyance, or Will, or Probate of the same, of which such memorial is to be registered as aforesaid, shall be produced to the said Register or his Deputy at the time of entering such memorial, who shall endorse a certificate on every such Deed, Conveyance and Will, or Probate thereof, and therein mention the certain day, hour and time on which such memorial is entered and registered, expressing also in what book, page and number the same is entered, and that the said Register or his Deputy shall sign the said certificate when so endorsed, which certificate shall be taken and allowed as evidence of such respective registries in all Courts of Record whatsoever; and that every page of such Register Book, and every memorial that shall be entered therein shall be numbered, and the day of the month and the year and hour or time of the day when every memorial is registered, shall be entered in the margins of the said Register Books and of the said memorial; and that every such Register shall keep an alphabetical calendar of all Townships and Parishes within the said County or Counties; Riding or Ridings,

Memorial of any Deed, &c., to contain date of such Deed, &c.

Ridings, with reference to the number of every memorial that concerns the lands, tenements or hereditaments in every such Township or Parish, respectively, and of the names of the parties mentioned in such memorial ; and the said Register shall enter or register the said memorials in the same order that they shall respectively come to his hand.

Deeds, &c.,
executed in
Upper Canada
on what evi-
dence to be re-
gistered.

IX. And be it enacted, That a memorial of any such Deeds, Conveyances, Wills, or Probate thereof, as shall be made and executed or published in any place within Upper Canada aforesaid, other than the County in which the lands mentioned therein lie, shall be entered and registered by the Register or his Deputy as aforesaid, provided an affidavit, sworn before one of the Judges of the Court of Queen's Bench, or a Judge of any District Court within his District, or a Commissioner duly authorized to take affidavits in the Court of Queen's Bench in Upper Canada, be brought to the said Register or his Deputy, wherein one of the witnesses to the execution of such Deed, Conveyance or Will, shall swear to the execution of the same, and also to the place where the same was executed ; and the same shall be a sufficient authority to the said Register or his Deputy to give the party that brings such Deed, Conveyance, Will, or Probate thereof, and affidavit, a certificate of the registering the same, which certificate, signed by the said Register or his Deputy, shall be taken and allowed as evidence of the registry of the same, in all Courts of Record in this Province ; anything in this Act to the contrary thereof in any wise notwithstanding.

Deeds, &c.,
executed out
of Upper Ca-
nada on what
evidence to be
registered.

X. And be it enacted, That a memorial of any such Deed, Conveyance or Will, as aforesaid, which shall have been or may be hereafter executed or published in any place without the limits of Upper Canada, shall be registered as aforesaid by the Register or his Deputy of any County in Upper Canada, in case an affidavit or declaration in writing in cases where by law a declaration is substituted for an affidavit, shall have been or shall hereafter be sworn before the Mayor or Chief Magistrate of any City, Borough or Town Corporate in Great Britain or Ireland, under the Common Seal of such City, Borough or Town Corporate, or before the Chief Justice or Judge of any Court of Queen's Bench in Lower Canada, or of the Supreme Court of any Colony belonging to the Crown of Great Britain, or before the Mayor of any City, Borough or Town Corporate, in any foreign country, or any Consul or Vice-Consul of Her Majesty resident therein, and be brought to the said Register or his Deputy, wherein one of the witnesses to the execution of such Deed, Conveyance or Will, shall have sworn, or shall hereafter swear to the execution of the same in the manner hereinbefore provided, and also to the place where the same was executed, and in case of Wills, one of the witnesses thereto shall have sworn or shall hereafter swear to the making and publishing of the said Will : Provided always, that on producing the Will, or the Probate thereof, together with such affidavit, the Register or his Deputy shall and may record the same, and the said Register or his Deputy shall file the said affidavit, and shall endorse a certificate on the said Deed, Conveyance, Will, or Probate thereof, which certificate shall have the same effect as if the said affidavit had been made before the said Register or his Deputy : Provided also, that no such memorial shall be registered unless the Deed, Conveyance, Will or Probate, to which such memorial shall relate, shall be identified as that referred to in such affidavit or affirmation, by a certificate thereof under the hand of such Judge or Commissioner, or other person before

Proviso.

Proviso as to
cases where
the registry
may be pre-
vented without
the fault of the
devisor.

before whom the affidavit or affirmation was made or taken, to be endorsed on such Deed, Conveyance, will or Probate.

XI. And be it enacted, That when the witnesses to any Deed, Conveyance or Will, as aforesaid, shall be dead, or shall be permanently resident out of this Province, it shall and may be lawful for the Grantee or Grantees, his or their Heirs, Executors, Administrators, Guardians or Trustees, or their Assignee or Assignees, to make proof before the Justices in General Quarter Sessions assembled in any District of this Province, of the execution of such instrument, and upon a certificate, signed by the Chairman and witnessed by the Clerk of the Peace, that the majority of the Magistrates present in such Session assembled, were satisfied by the proof adduced of the due execution of the said instrument, it shall and may be lawful for the Register of the said County, or his Deputy, to record the said Deed, Conveyance, or other instrument as aforesaid, in manner hereinbefore mentioned, together with the said certificate and to certify the same, which certificate, from the Register or his Deputy, shall have the like effect as the certificate to be granted in all other cases.

Case in which the witnesses may be dead or reside permanently out of the Province provided for.

XII. And be it enacted, That all Wills, or the Probate thereof, shall be recorded as aforesaid, within the space of twelve months after the death of every respective Devisor, Testator or Testatrix, shall be as valid and effectual against subsequent purchasers, as if the same had been recorded immediately after the death of such respective Devisor, Testator or Testatrix; anything herein contained to the contrary thereof in any wise notwithstanding: Provided always, that in case the Devisee, or person or persons interested in the lands, tenements or hereditaments, devised in any such Will as aforesaid, by reason of the contesting such Will, or by any other inevitable difficulty, without his, her, or their wilful neglect or default, shall be disabled from the recording the same within the respective times hereinbefore limited, then and in such case the recording the same within the space of twelve months next after his, her, or their attainment of such Will or Probate thereof, or the removal of the impediment aforesaid, shall be a sufficient recording within the meaning of this Act; anything herein contained to the contrary hereof in anywise notwithstanding.

Wills may be registered with effect within twelve months after the death of the Testator.

proviso

XIII. And be it enacted, That when and so often as any Judgment shall be entered up in any Suit or Action in any Court of Record in Upper Canada, whereby any lands, tenements or hereditaments within the same, are or may be affected, it shall and may be lawful for the Plaintiff or Plaintiffs, Defendant or Defendants in such Action, his or their Attorney, to obtain a certificate from the Clerk of the Court in which such Judgment is obtained in his or their favor, which certificate the said Clerk is hereby authorized and required to give, and to charge two shillings and six pence, currency, for the same, in the following form:

Certificate of judgment binding lands, how obtained.

2s. 6d.

" In the Court of
 " I hereby certify that Judgment was entered up between A. B., Plaintiff, and
 " C. D., Defendant, on the day of in a
 " plea of for pounds,
 " debt (or damages) and pounds, costs.
 " E F., Clerk."

Form.

And

Such certificate may be registered; effect of such registration.

And the party obtaining such certificate, his or their Attorney, shall carry the said certificate to the Register or Deputy Register of the County or Counties wherein the lands, belonging to the party or parties against whom such judgment is entered, lie, who, upon the receipt thereof, under the signature of the Clerk and under the seal of the Court, shall record the same; and every such Judgment shall affect and bind all the lands, tenements and hereditaments belonging to the party against whom such Judgment is rendered, from the date of the recording of the same, in the County wherein such lands, tenements or hereditaments lie, in like manner as the docquetting of Judgments in England affects and binds lands: Provided always, that no unregistered Judgment, entered after the passing of this Act, shall take effect against a prior registered Judgment, unless the party who shall have the first registered Judgment shall neglect or delay the putting his execution against lands, into the hands of the proper Sheriff for one year next after the entry of such Judgment.

Whenever lands have been sold under Deed of Sale, the same to be in certain cases a valid conveyance in law.

XIV. And be it enacted, That whenever any lands have been or shall hereafter be sold under Deed of bargain and sale, and such Deed hath been only registered or shall hereafter be recorded in the Registry Office of the County where such lands lie, the same shall be and is hereby declared to be as good and valid a Conveyance in law as if the same had been regularly enrolled.

Hours and days at which the Registers shall attend at their offices.

XV. And be it enacted, That every such Register, or his sufficient Deputy, shall give due attendance at his office every day in the year, (except Sunday, Christmas Day and Good Friday,) between the hours of ten in the forenoon and three in the afternoon, for the despatch of all business belonging to the said office; and that every such Register or his Deputy shall, when required, make searches concerning all memorials that have been heretofore registered, and concerning all Deeds, Wills or Judgments which may be hereafter recorded, and give certificates thereof under his hand, if required by any person.

Fees to the Register.

XVI. And be it enacted, That every such Register shall be allowed for the recording of every such Deed, Conveyance, Will, Devise or Instrument in writing, the sum of two shillings and six pence, and no more, in case the same doth not exceed one hundred words, but if the same shall exceed one hundred words, then at the rate of one shilling for each one hundred words therein contained over and above the first one hundred words; and the like fees for every certificate (except the certificate in the margin of the Registry Book) given under and by virtue of this Act, and no more; and for every search in the said office, the sum of one shilling and six pence, and no more; and the like fees for every hundred words on the registry of any Judgment as on the registry of any Deed, Conveyance or other Instrument: Provided always, that in no case shall a general search into the title to any particular lot, piece or parcel of land, exceed the sum of ten shillings.

Punishment of persons forging certificates.

XVII. And be it enacted, That if any person or persons shall at any time forge or counterfeit any certificate, by this Act authorized or directed, or any affidavit of the execution of any memorial, or any such memorial, and be thereof lawfully convicted, such person or persons shall incur and be liable to the same pains and penalties as in and by an Act of the Parliament of Great Britain, made in the fifth year of the Reign of Queen Elizabeth, intituled, *An Act against the Forgers of false Deeds*

Deeds and Writings, are imposed upon persons forging or publishing Deeds, Charters or Writings, sealed Court Rolls or Wills, whereby the freehold inheritance of any person or persons in or to any lands, tenements or hereditaments, shall or may be molested, troubled or charged ; and that if any person or persons shall at any time forswear himself before any Register or his Deputy, or before any Judge, Commissioner, or other person duly authorized to administer an oath in any of the cases aforesaid, and be thereof lawfully convicted, such person or persons shall incur and be liable to the same penalties as if the oath had been taken in any Court of Record in this Province.

Or forswearing themselves.

XVIII. And be it enacted, That this Act shall not extend to any lease for a term not exceeding twenty-one years, where the actual possession goeth along with the lease ; anything in this Act contained to the contrary thereof notwithstanding.

Act not to extend to certain leases.

XIX. And be it enacted, That safe and proper fire-proof offices and vaults shall be provided within eighteen months after the passing of this Act, in each and every County in this Province, for the keeping of all books, records, and other papers belonging to the office of Register ; and in case the Register of any County shall neglect to provide such office and vault within the period aforesaid, the District Council shall fix upon the most convenient and eligible site for such office within the County, and cause a proper and sufficient office to be provided at the expense of the District, not exceeding two hundred and fifty pounds, and such office shall from thenceforth be used and occupied as a Registry Office for the County in which the same may be situate ; and if any Register shall not keep his office in the place appointed in his commission, or by proclamation, or, not having a fire-proof office and vaults, shall neglect or refuse to remove to that provided for him as aforesaid, he shall, on presentment by the Grand Jury at any Court of General Quarter Sessions, to be made on the evidence or oath of one or more competent witnesses, be liable to be removed from office at the discretion of the Governor ; and it shall be the duty of every Clerk of the Peace forthwith to forward a copy of such presentment to the Governor : Provided always, that the Governor may fix the time for such removal to the office so provided.

Fire-proof offices and vaults to be provided for Registry Offices.

XX. And be it enacted, That if any Register shall cease to reside within the limits of the County for which he is appointed, or shall become, by sickness or otherwise, wholly incapable of discharging the duties of his office, it shall be lawful for the Governor to remove him from office, on presentment by the Grand Jury as aforesaid, made on such evidence as aforesaid ; and the Clerk of the Peace shall in like manner forward a copy of every such presentment.

Register removing from the County or becoming wholly incapable, may be removed from office.

XXI. And be it enacted, That if any Register or his Deputy shall neglect to perform his duty as required by this Act, or commit or suffer to be committed any undue or fraudulent practice in the execution thereof, and be thereof legally convicted, then such Register shall forfeit his said office, and shall be liable to pay treble damages, with full costs of suit, to any person or persons that shall be injured thereby, to be recovered by action of debt, bill, plaint or information, in any of Her Majesty's Courts of Record ; and any Deputy who shall remain in office during any vacancy occasioned by the death, resignation or forfeiture of the Register, shall be for the same cause and in like manner liable.

Punishment of Registers guilty of undue practices.

Deputies.

XXII.

Secretary of
the Province to
provide Register
Book for
each Town-
ship, &c.

XXII. And be it enacted, That from and after the passing of this Act, the Secretary of the Province shall be authorized, and is hereby required to provide a fit and proper Register Book for each Township, reputed Township, City and Town, the limits whereof are now defined by law in Upper Canada, and that all such Register Books shall continue to be hereafter of one uniform size or nearly so, and from the time such books shall be so provided and received at the respective Registry Offices, it shall be the duty of every person who shall hold or execute the said office of Register, to keep and cause to be used for that purpose a separate Register Book of or for each Township, and reputed Township, and of and for every City and Town, the limits whereof shall be defined by law within the County or Riding for which they shall hold such office or appointment of Register; and that thereafter whenever any such Register shall require a new Register Book, the same shall in like manner be provided by the Secretary of the Province for the time being, and the necessary expense incurred thereby, from time to time, shall be defrayed by the District Council of the District in which such respective Counties shall be situate.

How Register-
ed Mortgages
or Judgments
may be dis-
charged.

XXIII. And be it enacted, That when any registered Judgment or Mortgage is satisfied, it shall and may be lawful for the Register or his Deputy, on receiving a certificate in the form in the Schedule to this Act marked A, in respect to Mortgages, duly proved by the oath of a subscribing witness, in the same manner as hereinbefore provided for the proof of Deeds and other instruments affecting lands, from the person entitled to the amount of such Mortgage, or the Attorney of such person, and in case of Judgments on receiving a satisfaction piece under the seal of the Court in which such Judgment is entered and signed by the Clerk thereof, to write the word "discharged," and affix his name in the margin of the Register wherein the said Judgment or Mortgage is registered, which shall be deemed a discharge thereof; and such certificate or satisfaction piece shall be filed and numbered and entered on the margin of the Register under the word "discharged."

Proviso:
Certificate of
payment of
condition of
mortgage to be
valid and ef-
fectual in cer-
tain cases.

XXIV. Provided always, and be it enacted, That any certificate of payment or performance of the condition of any Mortgage by the Mortgagee, his Heirs, Executors, Administrators or Assigns, heretofore given and registered under the provisions of the Act herein first above cited and repealed, or which having been given under the provisions of the said Act may be registered under this Act, or which may be hereafter given and registered under the provisions of this Act, whether the same shall have been given or shall hereafter be given, either before or after the time limited by such Mortgage for payment or performance as aforesaid, shall be and the same is hereby declared to be valid and effectual in law as a release of such Mortgage, and as a reconveyance of the original estate of the Mortgagor therein mentioned: Provided also, that such certificate, if given after the expiration of the period within which the Mortgagor had a right in equity to redeem, shall not have the effect of defeating any title other than a title remaining vested in the Mortgagor, or his Heirs, Executors, Administrators or Assigns.

Proviso.

Registers to
take an oath
of office.

XXV. And be it enacted, That every such Register, before he enters upon the execution of the said office, shall be sworn before any two or more of the Justices of the Peace for the District wherein such Register shall reside, who are hereby empowered and required to administer such oath, in these words:

" You

" You swear that you will well, truly and faithfully perform and execute the office and duty that is directed and required by any Act of the Legislature of this Province, in registering Deeds, Memorials of Deeds, Conveyances and Wills within the County of The oath. so long as you shall continue in the said office, and that you have not given or promised, directly nor indirectly, nor authorized any person to give any money, gratuity or reward whatsoever, for procuring or obtaining the said office for you : So held you God."

XXVI. And be it enacted, That when and so often as the said Register shall appoint any Deputy to execute the said office, such Deputy shall, before he enters upon the execution thereof, take the said oath appointed to be taken by the Register, before two or more Justices of the Peace for the District wherein he may be, (who are hereby empowered and required to administer such oath ;) and that every Register, at the time of his being sworn into the said office, shall also enter into a recognizance with two or more sufficient sureties, to be approved of by three or more of the Justices of the Peace of the District, by writing under their hands and seals, in the penalty of one thousand pounds, unto Her Majesty, Her Heirs and Successors, to be taken by the same Justices of the Peace that approved of his security, conditioned for the true and faithful performance of his duty in the execution of his said office, in all things directed and required by this Act, the same to be transmitted by the said Justice of the Peace, within six months after the date thereof, into the Court of Her Majesty's Bench in Upper Canada, there to remain amongst the Records of the said Court. Deputies to be sworn.

XXVII. And be it enacted, That the Register or his Deputy shall not be compelled to register any Deed, Conveyance, Will, or other Instrument, unless the fees authorized by this Act shall be previously paid thereon. No deed, &c., need be registered until the fees thereon be paid.

XXVIII. Provided nevertheless, and be it enacted, That when any Register shall die or surrender his office, and that, within the space of one year from and after such death or surrender, no misbehaviour appears to have been committed by such Register in the execution of his office, then and in such case, at the end of the said one year after his death or surrender, the recognizance entered into by him shall become void and of no effect to all intents and purposes whatever. Provision in case of death, &c., of Register.

XXIX. And be it enacted, That the Seal of any Corporation affixed to any Deed, Conveyance, Memorial or Instrument in writing, shall of itself be sufficient evidence of the due execution of such Deed, Conveyance, Memorial or Instrument in writing, by such Corporation, for all purposes respecting the registering thereof, and no further evidence or verification of such execution shall be required for the purpose of registry ; any law or custom now in force to the contrary notwithstanding. Seal of a Corporation to be sufficient evidence to justify the registration of their Deed.

XXX. And be it enacted, That whenever it shall appear to the satisfaction of the Governor of this Province, that the Register's Office in any County is situated inconveniently for the public, it shall be lawful for him, by proclamation, to order the said office to be removed to such other place in the County as he shall deem expedient. Governor may remove the Registry office in a County to the chief Town.

Preamble.

XXXI. And whereas it is desirable that Registers should be enabled to afford purchasers and other persons making searches, information respecting the original Grantee of each lot, piece, parcel or tract of land within their respective County or Counties, together with the local situation of the same: Be it therefore enacted, That it shall be the duty of the Officer or person performing the duties formerly assigned to the Surveyor General of the Province, to furnish each Register with a list of the names of all persons in whose favor Patents may have heretofore issued from the Crown for grants of land within their respective County or Counties, or which may from time to time hereafter issue, and also with copies of all plans or maps of Towns and Townships within the same, within twelve calendar months after any Register shall in writing make application to the said Officer or person performing such duties as aforesaid for the same.

Surveyor General to furnish Registers with certain information.

Also certain Maps.

Duty of Register when portion of a County is set apart so as to form another County.

XXXII. And be it enacted, That where any portion of a County is separated or set apart so as to form another County, or a part thereof, it shall be the duty of the Register of the first mentioned County, to furnish a statement of the registration of such titles as may have been registered, of lands lying in the part so separated, to the Registers of the new County and of the County of which it shall form a part, setting forth the dates of the Deeds and the particulars of the lots or parcels of lands to which they respectively relate or refer.

When a Company, &c., shall subdivide any land into town lots, a plan or map of such land may be lodged in Registry Office.

XXXIII. And be it enacted, That any person, Corporation or Company of persons, who have heretofore or shall hereafter survey and subdivide any land into Town or Village lots, differing from the manner in which such lands were described as granted by the Crown, it shall and may be lawful for such person, Corporation or Company, to lodge with the Register of the County a plan or map of such Town or Village lots, shewing the numbers and ranges of such lots, and the names, sites and boundaries of the streets or lanes by which such lots may be in whole or in part bounded, together with a declaration to be signed by such person, or by the lawful Officer, Agent or Attorney of such Corporation or Company, that the said plan contains a true description of the lots and streets laid out and appropriated by such person, Corporation or Company, and thenceforth it shall be lawful for the Register to keep an Index of the land described on such map or plan as a Town or Village, or part of a Town or Village, by the name by which such person, Corporation or Company shall designate the same.

Certain Counties may be united for the purpose of registration.

XXXIV. And be it enacted, That for and notwithstanding any thing in this Act contained, it shall not be necessary to appoint a Register for each of the following Counties, namely: Lennox, Addington, Prescott, Russell, Lincoln and Welland; but for the purposes of registration of titles under this Act, it shall and may be lawful to appoint one Register for the Counties of Lennox and Addington, one for the Counties of Prescott and Russell, and one for the Counties of Lincoln and Welland: Provided always, that in the event of a vacancy in the office of Register of either of the said united Counties, it may be lawful for the Governor General in his discretion to divide the said Counties in which any such vacancy may happen, and to appoint a Register for each County respectively.

Interpretation clause.

XXXV. And be it enacted, that the words "Upper Canada," throughout this Act, shall be always construed to extend to and mean that portion of this Province which

which formerly constituted the Province of Upper Canada ; and that this Act shall not apply to that portion of this Province formerly constituting the Province of Lower Canada in any way whatsoever, and the words " Governor of the Province," shall include the Lieutenant Governor or Person administering the Government of this Province.

SCHEDULE A

ABOVE REFERRED TO.

To the Register of the County.

I, A. B., of _____ do certify that C. D., of _____
hath satisfied all money due upon a certain mortgage made by the said C. D. to me,
bearing date the _____ day of _____ one thousand
eight hundred and _____ and registered at _____ of the clock in the
forenoon of the _____ day of _____ following, and that
such mortgage is therefore discharged.

As witness my hand, this day of 18 ..

(Signed) A. B.

E. F., of
G. H., of

} Witnesses.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



A N N O N O N O

VICTORIÆ REGINÆ.

CAP. XXXV.

An Act to authorize and enforce the attendance of Witnesses from any part of this Province, before the Courts of Superior Criminal Jurisdiction.

[9th June, 1846.]

WHEREAS it is necessary to provide for the attendance of witnesses in Criminal Cases, upon Subpœnas issued from any of the Courts in this Province having Superior Criminal Jurisdiction : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That if any witness or witnesses in any Criminal Case cognizable in the Courts of Queen's Bench, or before any Justices of Assize, or Commissioners of Oyer and Terminer or Gaol Delivery in any part of this Province, shall reside in any part of this Province without the Jurisdiction of that Court of Queen's Bench, or of the Justices of Assize, or Commissioners of Oyer and Terminer or Gaol Delivery, before which or whom such Criminal Case is or shall be cognizable, it shall be lawful for the Court of Queen's Bench, or Justices of Assize, or Commissioners of Oyer and Terminer or Gaol Delivery, before which or whom such Criminal Case shall be cognizable, to issue a Writ or Writs of Subpœna, directed to such witness or witnesses in like manner as if such witness or witnesses were resident within the jurisdiction of such Court of Queen's Bench, Justices of Assize, or Commissioners of Oyer and Terminer or Gaol Delivery, and in case such witness or witnesses shall not obey such Writ or Writs of Subpœna, it shall be lawful for such Court of Queen's Bench, Justices of Assize, or Commissioners of Oyer and Terminer or Gaol Delivery, issuing such Writ or Writs of Subpœna, to proceed thereupon against such witness or witnesses for contempt or otherwise, or to bind over such witness or witnesses to appear at such days and times as may be necessary, and upon default being made in such appearance, to cause the recognizances of such witness or witnesses to be estreated, and the amount thereof to be sued for and recovered by process of law, in like manner as if such witness or witnesses were resident within the jurisdiction of such Court of Queen's Bench, Justices of Assize, or Commissioners of Oyer and Terminer or Gaol Delivery ; any law, usage or custom to the contrary thereof in anywise notwithstanding.

Preamble.

Witness may be summoned from any part of the Province to attend certain Criminal Courts who may enforce their attendance.

And may be punished for disobedience.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. XXXVI.

An Act to amend an Act passed in the last Session of this Parliament, intituled, *An Act to amend, consolidate, and reduce into one Act, the several Laws now in force establishing or regulating the practice of District Courts in the several Districts of that part of this Province formerly Upper Canada.*

[9th June, 1846.]

WHEREAS it is expedient to amend the Act passed in the last Session of this Parliament, intituled, *An Act to amend, consolidate, and reduce into one Act, the several Laws now in force establishing or regulating the practice of District Courts in the several Districts of that part of this Province formerly Upper Canada*, so far as it relates to the Judges of the said several District Courts holding office during good behaviour, and also so far as it relates to its being lawful for the Governor to remove any such Judge or Judges of the said Courts, upon a joint Address of the Legislative Council and Legislative Assembly of this Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing to the contrary in the second section or in any other part of the said Act, the Judge or Judges of the said several District Courts shall hold their several offices during pleasure.

Preamble.
8th Victoria,
cap. 3. cited.

Judges of District Courts to hold their offices during pleasure.

II. And be it enacted, That it shall and may be lawful for the Governor to remove any such Judge or Judges, without a joint Address of the Legislative Council and Legislative Assembly; provided always, that in case of any removal of any such Judge or Judges, the cause and reason for such removal shall be submitted to the Legislative Council and Legislative Assembly at their first Session next after any such removal of any Judge or Judges of the said Court.

Governor may remove any District Judge without Address from Parliament.
Proviso.

III. And be it enacted, That every thing in the said Act contained, contrary or repugnant to the provisions of this Act, be and the same is hereby repealed.

Provisions of 8 Victoria, chapter 13, contrary to this, repealed.

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Law Printer to the Queen's Most Excellent Majesty.



A N N O N O N O

VICTORIÆ REGINÆ.

C A P. XXXVII.

An Act to amend the Law constituting the Board of Works.

[9th June, 1846.]

WHEREAS it is expedient to amend and enlarge a certain Act passed in the Session held in the fourth and fifth years of the Reign of Her present Majesty, intituled, *An Act to repeal certain Ordinances therein mentioned, and to establish a Board of Works in this Province*: Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That, the third and all the subsequent sections of the said Act shall be and are hereby repealed.

Preamble.

Act 4 & 5
Vict. c. 38.
cited.

The third and
subsequent
sections re-
pealed.

II. And be it enacted, That for the superintendence, management and control of the Public Works of this Province, it shall be lawful for the Governor to appoint a Chief Commissioner and an Assistant Commissioner, who shall be styled Commissioners of Public Works, and shall have such powers, authority and capacities as are provided by this Act, or as may be hereafter provided by any Act of the Legislature of this Province, and no other power, authority or capacity whatever: Provided always, That nothing in this Act, or in the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act for better securing the Independence of the Legislative Assembly of this Province*, shall be construed to disqualify either of the said Commissioners from being elected or returned to be a Member of the Legislative Assembly of this Province, or from sitting or voting therein, if elected or returned after his appointment as such Commissioner.

Two Commis-
sioners of
Public Works
to be appointed
with such
powers only
as are given by
this Act.

Commissioners
not to be dis-
qualified from
being Mem-
bers of the
Assembly.

III. And be it enacted, That it shall be lawful for the Governor to appoint a fit and proper person to be Secretary for the Public Works, and that the Governor may, at his pleasure, remove the Commissioners and Secretary or either of them, and appoint others in their stead, or may reinstate those removed, whenever he shall deem it expedient. And it shall also be lawful for the Governor to appoint all Engineers, Superintendents, and other Officers for the construction, maintenance and repair of such works and buildings.

Secretary to be
appointed.
Commis-
sioners and
Secretary
removable at
pleasure.
Governor to
appoint En-
gineers, &c.

IV.

Commissioners and Secretary to be paid a yearly salary, &c., and to devote all their time to their duties.

IV. And be it enacted, That the said Commissioners and Secretary shall respectively receive a yearly salary, and their actual disbursements and travelling expenses when away from their place of residence on the duties of their offices, and shall devote their whole time to the business of their respective offices, and shall not exercise any other profession or calling while they shall respectively hold their offices.

Commissioners may enter into contracts on behalf of the Province relative to Public Works.

How contracts made with the Board of Works shall be construed hereafter.

V. And be it enacted, That the said Commissioners shall have power by writing under their hands and seals, on behalf of the Province, to make and enter into all necessary contracts, agreements, stipulations, bargains, and arrangements with all and any person or persons whomsoever, upon, for or respecting any act, matter or thing whatsoever, relative to the Public Works of this Province, and the construction and repairs thereof, and the lands required for the same; and all contracts heretofore made and entered into by and with the Board of Works, shall, after the passing of this Act, be respectively construed and have effect, as if they had been made and entered into by and with the said Commissioners, and all rights acquired by the Board of Works under any contract shall, after the passing of this Act, be vested in Her Majesty, Her Heirs and Successors, subject to the provisions of this Act.

Office of the Commissioners—and times of meeting.

VI. And be it enacted, That the office of the said Commissioners shall be at such place as the Governor shall from time to time appoint for that purpose, and and that such office shall be the place of meeting of the said Commissioners; and that they shall hold their meetings for the transaction of the business of their department, at such stated periods as the Governor shall appoint in that behalf, and at such other times as the Governor shall specially direct, and at any time to which they may adjourn from any regular special or adjourned meeting.

Of what public works the Commissioners shall have the management.

Proviso: no work to be undertaken without the sanction of the Legislature.

Commissioners may enter on property to make surveys, &c.

And may take lands, streams, &c., for public works.

VII. And be it enacted, That the said Commissioners shall have the management and controul of constructing, maintaining and repairing all canals, harbours, roads or parts of roads, bridges, slides, and other Public Works or buildings now in progress, or which have been or shall be constructed or maintained at the public expense out of the Provincial funds, and which by or under this or any other Act, are or shall be hereafter placed under their management and control; Provided always, that nothing in this Act shall be construed as giving authority to the said Commissioners to cause expenditure on any work not previously sanctioned by the Legislature.

VIII. And be it enacted, That it shall be lawful for the said Commissioners to authorize their engineers, agents, servants and workmen to enter into and upon any and all ground to whomsoever belonging, and to survey and take levels of the same or of any part thereof, and to make such borings, or sink such trial pits, as they may deem necessary for any or all of the purposes and objects under the management and control of the said Commissioners as aforesaid: And the said Commissioners, in and for the said purposes, shall at all times have power to acquire and take possession of all such lands or real estate, and to take possession of all such streams, waters and water courses, the appropriation of which for the use, construction and maintenance of such Public Works as aforesaid, shall, in their judgment be necessary; and that the said Commissioners may for that purpose contract

contract and agree with all persons, Seigniors, bodies corporate, guardians, tutors, curators and trustees whatsoever, not only for and on behalf of themselves, their heirs, successors and assigns, but also for and on behalf of those whom they represent, whether infants, (minor children) absentees, lunatics, idiots, femmes-covert, or other persons otherwise incapable of contracting, who are or shall be possessed of or interested in such lands, real property, streams, waters and water courses, as aforesaid; and all such contracts and agreements, and all conveyances or other instruments made in pursuance thereof, shall be valid and effectual in law to all intents and purposes whatsoever: Provided always, that such compensation as may be agreed on between the parties, or as may be appraised and awarded in the manner hereinafter set forth, shall be paid for such land, real property, streams, waters and water courses, or damages, to the owner or owners, occupier or occupiers of such lands or other property as aforesaid, or to the person or persons suffering such damage as aforesaid, within four months after the amount of such compensation shall have been agreed on or appraised and awarded; and where any such owner or owners, occupier or occupiers, shall refuse or fail to agree for conveying his, her or their estate or interest in any land, real property, streams or water courses as aforesaid, the said Commissioners may tender the reasonable value in their estimation of the same, with notice that the question will be submitted to the Arbitrators as hereinafter appointed; and in every case, within three days after such agreement or tender and notice, the said Commissioners may authorize possession to be taken of such land, real property, streams or water courses so agreed or tendered for: Provided, that if the sum awarded shall exceed the sum tendered, the said Commissioners shall pay the costs of arbitration, but, if not, the costs shall be paid by the person or persons so refusing the tender made by the said Commissioners as aforesaid; and if the owner or owners of such land, real property, streams or water courses do not reside in the vicinity of such property so required, then notice shall be given in the Official Gazette and in two distinct newspapers published in or adjoining the District in which such property is situate, of the intention of the Commissioners to cause possession to be taken of such lands, or real property, streams or water courses, and after thirty days from the publication of the last notice, possession may be taken accordingly; and all land, real property, streams or water courses, contracted for, purchased, or otherwise acquired by the said Commissioners in manner aforesaid, shall be vested in and become and be the property of Her Majesty, Her Heirs and Successors, and the respective conveyances thereof, not being notarial deeds, shall be brought to and recorded and enrolled in the office of the Registrar of this Province, but being so enrolled or being notarial deeds need not otherwise be made by matter of record; and such conveyances may be accepted by the said Commissioners on behalf of the Crown.

IX. And be it enacted, That in Lower Canada the compensation awarded as aforesaid, or agreed upon by the said Commissioners and any party who might under this Act validly convey the lands, or lawfully in possession thereof as proprietor, for any lands which might be lawfully taken under this Act without the consent of such proprietor, shall stand in the stead of such land; and any claim to or hypothec or incumbrance upon the said land, or any portion thereof shall be converted into a claim to or upon the said compensation: Provided always, that if the said Commissioners shall have reason to believe that any such

claims,

May contract with parties otherwise incapable of contracting.

Proviso. Compensation to be paid.

Tenders may be made to parties refusing to agree on the compensation.

And possession may be taken.

Proviso as to costs of arbitration.

How notice shall be given if the owner do not reside in the vicinity of the property.

Possession may be taken after such notice.

Property so acquired to be vested in the Crown, and the Deeds enrolled; unless they be passed before Notaries: Commissioners to accept for the Crown.

In Lower Canada the compensation shall stand in the stead of the property.

Proceedings to be taken if the Commissioners shall

have reason to think that hypothecs or claims exist, in order to purge the same.

What the Prothonotary notice shall contain in addition to the usual particulars.

Claims not filed (including dower not open) to be for ever barred.

Distribution to be ordered by the Court.

Provision as to interest.

Commissioners may discontinue part of a public road on substituting another.

Road discontinued to become part of the land it was originally taken from.

Provision as to roads discontinued before the passing of this Act, under the authority of the Board of Works.

claims, hypothecs or incumbrances exist upon the land, or if any party to whom the compensation or any part thereof shall be payable, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the said Commissioners, or if for any other reason the said Commissioners shall deem it advisable, it shall be lawful for them to pay such compensation into the hands of the Prothonotary of the Court of Queen's Bench for the District in which the land may lie, and to cause to be delivered to the said Prothonotary an authentic copy of the conveyance (or of the award if there be no conveyance, and such award shall thereafter be deemed to be the title of Her Majesty, Her Heirs and Successors to the land therein mentioned) and proceedings shall be thereupon had upon application on behalf of the Crown for the confirmation of such title in like manner as in other cases of confirmation of title, except that in addition to the usual contents of the notice, the Prothonotary shall state that such title (that is the conveyance or award) is under this Act, and shall call upon all persons entitled to, or to any part of the land, or representing or being the husband of any parties so entitled, to file their oppositions for their claims to the compensation, or any part thereof, and all such oppositions shall be received and adjudged upon by the Court, and the judgment of confirmation shall for ever bar all claims to the lands or any part thereof, (including dower not yet open) as well as all hypothecs or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested as to right and justice, according to the provisions of this Act and to law shall appertain: and the costs of the said proceedings or any part thereof shall be paid by the said Commissioners or by any other party, as the Court shall deem it equitable to order. And if judgment of confirmation be obtained in less than six months from the payment of the compensation to the Prothonotary, the Court may order a proportionate part of the interest to be returned to the Commissioners; and if from any error, fault or neglect in prosecuting the said application for confirmation of title, such confirmation shall not be obtained until after the six months are expired, the Court shall order payment of interest for such further period as may be right, to the party entitled thereto.

X. And be it enacted, That the said Commissioners shall have full power to discontinue or alter any part of a public road, where it shall be found to interfere with the proper line in constructing such Public Works as aforesaid or any of them: Provided always, that the said Commissioners previous to discontinuing or altering such public road, do substitute another convenient road in lieu of such public road or part thereof as may be so discontinued or altered; and the land theretofore used for any road or part of a road so discontinued with the sanction of the Governor in Council, shall thereafter become the property of the owner of the land of which it originally formed part. And as to the roads now discontinued and replaced by roads made under the control of the Board of Works, such roads or parts of roads shall hereafter become the property of the owner or owners of the land of which they originally formed part, and shall not hereafter be or be used as a public road, saving and excepting such parts of the said roads so discontinued as may have been set apart and retained by the Board of Works for the use of the public; and also such other parts thereof as may be required by the owner or owners of such property to reach the new road or roads which may have been

been substituted for such old roads; provided such roads or such parts of roads shall not be made use of to avoid the payment of tolls.

XI. And be it enacted, That the said Commissioners by their officers, servants, laborers or contractors, shall be and are hereby authorized to procure from all uncleared or wild land, all such stones, gravel, sand, clay, or other material as may be found thereon and necessary for the construction, maintenance or repair of such Public Works or buildings as aforesaid, for which compensation shall be made at the rate which may be agreed on or appraised and awarded as hereinafter described, for the value thereof; and the said Commissioners by their officers, servants, laborers or contractors, shall have and hereby have authority to make and use all or any such temporary road or roads to and from such stones, clay, gravel, sand or gravel pits, as may be necessary or as may be required for the convenient passing to and from the works during their construction or repair.

Commissioners may take materials from off any land.
Compensation to be made.

Commissioners may make roads from their works to such materials.

XII. And be it enacted, That upon all the public Works now completed and heretofore vested in the Board of Works, or vested in Her Majesty, Her Heirs and Successors, by virtue of this Act, and upon any canal, harbour, road, bridge, ferry, slide, or other Public Work as aforesaid now in progress of construction, when it shall be completed or be so far completed as to be available for the purpose for which it was designed, and which shall be reported accordingly by the said Commissioners to the Governor, it shall be competent for the Governor in Council, by proclamation, to impose and authorize the collection of tolls and dues, and from time to time to change and alter the same, and to declare the exemptions therefrom: Provided always, that with regard to any such work mentioned in the Schedule B, such tolls shall not exceed the maximum rates set down in the said Schedule with reference to such work.

When any work is available, Tolls may be collected, under authority of the Governor in Council.

Proviso: Tolls not to exceed the maximum rates in Schedule B.

XIII. And be it enacted, That all lands, real property, streams or water courses acquired heretofore for the use of the Public Works vested in the Board of Works, shall be vested in Her Majesty, Her Heirs and Successors, to and for the purposes of the said works, and when the same or any lands, real property, streams or water courses hereafter to be acquired or any portion thereof, are not required for the said works, they may be disposed of under the sanction and authority of the Governor in Council, and the proceeds thereof accounted for as public monies; and that all such hydraulic powers as have been or may be hereafter created by the construction of any public work, or the expenditure of any public monies thereon, shall be vested in Her Majesty, Her Heirs and Successors, and any portion thereof not required for the Public Works may be disposed of under the sanction and authority of the Governor in Council by sale or lease, the proceeds of such sale or sales, lease or leases, to be accounted for as public monies.

Property acquired for the use of Provincial Works to be vested in the Crown.

And hydraulic powers.

Governor in Council may dispose of such property as may not be required.

XIV. And be it enacted, That it shall be the duty of the said Commissioners to prepare and submit to the Governor in Council, an Annual Report on all the works under their control, to be laid before the two Houses of the Legislature, within twenty-one days from the commencement of each Session, showing the state of each work, the amounts of the receipt and expenditure thereon, together with such further information as may be requisite; and it shall be the duty of the said Commissioners to have the minutes of all their proceedings and reports duly entered,

Duties of the Commissioners.
Annual Report.

Minutes of proceedings of the Commissioners to be kept.

Security to be taken from Contractors.

Cases where the lowest tender is not deemed the most advantageous provided for.

Suggesting public works.

Limitation of expense to be incurred without authority from the Governor in Council.

Application for expenditure on any public work to be referred to the Commissioners.

Security to be given for necessary expenses of survey, &c., if found requisite.

Proviso; such expense to be refunded in certain cases.

Maps and plans of Work to be submitted to the Governor.

Commissioner not to depart from the line shown in any such Map approved by the Legislature more than 500 yards.

What shall be deemed Acts of the Commissioners.

entered, and to report upon all matters referred by the Provincial Government, connected with the objects for which the said Commissioners are appointed, and to obtain all such evidence and information, plans, estimates, drawings or specifications, and to cause such surveys, visits and examinations to be made, and to do all such acts as may be necessary to enable them to report; and it shall also be the duty of the said Commissioners in all cases where the aforesaid Public Works or any of them are being carried on by contract, to take all reasonable care that good and sufficient security be given to and in the name of Her Majesty, Her Heirs and Successors, for the due performance of the work within the amount and time specified for its completion; and also, in all cases where it may seem to the said Commissioners not to be expedient to let such work to the lowest bidder, it shall be their duty to report the same, and have the authority of the Governor in Council previous to passing by such lowest tender; and it shall further be the duty of the said Commissioners to suggest to the Governor in Council such Public Works or improvements as may in their judgment be undertaken with advantage to the Province: Provided always, that in no case shall any expense beyond the amount of one hundred pounds be incurred or authorized by the said Commissioners with regard to any matter or matters referred to them, or suggested by them, unless with the sanction and approval of the Governor in Council.

XV. And be it enacted, That in all cases of application to the Executive Government or to the Legislature, by individuals or by bodies corporate or incorporate, for an appropriation for or expenditure upon any work proposed by him or them to be undertaken at the public expense, detailed plans, surveys and estimates thereof shall be forwarded by the parties so applying, to the said Commissioners, to enable them to report thereon in a full and satisfactory manner for the information of the Governor and of the Legislature; and in case the plans, surveys and estimates so sent are not found sufficient, the party or parties so applying, on being informed thereof, shall, prior to any action of the Commissioners thereon which would be attended with expense, enter into bonds to bear the costs attendant upon the providing of such further survey, examination and details as the Commissioners may deem requisite to be made either by their own officer or otherwise: Provided that every such reasonable expense shall be refunded to the parties if the Legislature shall make an appropriation for such work.

XVI. And be it enacted, That it shall be the duty of the said Commissioners to lay before the Governor the maps and estimates of any works which may or shall have been suggested by them for the consideration of the Legislature, and which maps and estimates shall have been prepared by order of the Governor in Council as aforesaid; and in the construction of these and of all other Public Works which shall be approved of and provided for by the Legislature, it shall not be lawful for the said Commissioners to depart, in any case, more than five hundred yards from such line or lines as shall have been delineated on the maps or plans of such works, submitted to and approved of by the Legislature, such deviation to be in all cases first submitted to and approved by the Governor in Council.

XVII. And be it enacted, That the Chief Commissioner for the time being, shall be the legal organ of the Commissioners, and all writings and documents signed by him and countersigned by the Secretary, and sealed with the seal of the Chief Commissioner, and no others, shall be held to be Acts of the said Commissioners.

XVIII.

XVIII. And be it enacted, That upon the completion of each or any Canal, Harbour, Road, Bridge, Ferry, Slide, or other public work as aforesaid, it shall be lawful for the Governor in Council to direct and authorize all matters and things which may be considered necessary for the due maintenance and use of such aforesaid works, or any of them, as well as best adapted to advance the public good ; and that the Governor in Council shall have power to enact from time to time such regulations as he may deem necessary for the regulation and management, proper using and protection of all or any of the said Public Works, or for ascertaining and for the collection of the tolls, dues and rates thereon, and by such regulations to impose such fines, not exceeding in any case fifty pounds, currency, for any one offence, as may be necessary for enforcing the same, and to provide for the non-passing or detention, at the risk of the owner, of vessels, carriages, animals or goods, on which such tolls are not paid, or in respect of which any such regulations are not complied with, or any injury done to any such Public Works, or any fine may have been incurred and remain unpaid ; any thing to the contrary in any former Act notwithstanding ; and such regulations shall be published in the Official Gazette, and a copy of such Gazette, printed by the Queen's Printers, and containing any such regulations, shall be legal evidence of the tenor thereof.

The Governor in Council may make regulations for the proper using of any work completed.

Governor in Council may enact regulations for imposing tolls, &c.

Penalties imposed not to exceed £50.

Regulations how published and proved.

XIX. And be it enacted, That all Her Majesty's Officers and Soldiers, being in proper uniform, dress or undress, (but not when passing in any hired or private vehicle,) and all carriages and horses employed in Her Majesty's service, when conveying persons or baggage, shall be exempted from payment of any duties or tolls on using, passing or travelling over any Road or Bridge named in the Schedule to this Act annexed, or hereafter to be made or constructed out of the public monies of this Province : Provided, that nothing herein contained shall exempt any boats, barges, or other vessels employed in conveying the said persons, horses, baggage or stores along any canal, from payment of tolls, in like manner as other boats, barges and vessels are liable thereto.

Officers and Soldiers on duty to pass toll free over Roads and Bridges.

Proviso as to Canals.

XX. And be it enacted, That all tolls, rates and dues imposed under the authority of this Act, may be recovered, with costs, in any Court having civil jurisdiction to the amount to be recovered, by the Collector or person appointed to receive the same, in his own name, or in the name of Her Majesty, and by any form of proceeding by which debts to the Crown may be recovered ; and all penalties imposed by this Act, or by any regulation made under the authority thereof, shall be recoverable with costs before any Justice of the Peace for the District in which the offence shall be committed, upon proof by confession or by the oath of any one credible witness, and may, if not forthwith paid, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of such Justice ; and if sufficient distress cannot be found, and such penalty be not forthwith paid, it shall be lawful for such Justice, by warrant under his hand and seal, to cause the party offending to be committed to the Common Gaol of the District, there to remain without bail or mainprize, for such time as such Justice may direct, not exceeding thirty days, unless such penalty and costs be sooner paid ; and such penalties, when recovered, shall belong to Her Majesty for the public uses of the Province, and shall be paid over and accounted for accordingly : Provided always, that in respect to tolls, rates and dues on timber passing any

In what manner tolls, and penalties imposed under this Act shall be recoverable.

And how levied.

Application of penalties.

Provided as to
tolls, penalties,
&c., accruing
or incurred
with respect
to Timber pass-
ing any slide,
&c.

any Slide, and to penalties for violating regulations respecting such Slides, or for non-payment of such tolls, rates and dues, the same may be enforced, imposed and collected, by and before any Justice of the Peace within any District of the Province in which the timber, respecting which such tolls, rates or dues, or the person from whom such payment or penalty is demanded, may happen to be at the time application shall be made to such Justice to enforce payment of the same.

Tolls, &c., to
be paid by the
person receiv-
ing them to
the Receiver
General.

XXI. And be it enacted, That all tolls, dues and rates, or other revenues, imposed and collected, shall be paid by the officers or persons receiving the same directly to the Receiver General of the Province, in such manner and at such intervals as may be appointed by him, but such intervals shall in no case exceed one month, and all such tolls, dues and rates, shall be held to be duties, within the meaning of the Act of the now last Session of the Provincial Parliament, intituled, *An Act to provide for the management of the Customs, and of matters relative to the collection of the Provincial Revenue*, and shall, as shall all persons concerned in the collection thereof, and all matters therewith connected, be subject to the provisions of the said Act in so far as may be consistent with this Act.

And to be
deemed
"duties,"
within the
meaning of
the Act 8 Vict.
c. 4.

No money for
any public
work or build-
ing to be ex-
pended except
under the
Commis-
sioners.

XXII. And be it enacted, That no sum of public money now appropriated or to be hereafter appropriated, for any public work or building as aforesaid, shall be expended except under the control and superintendence of the said Commissioners; any Act or Law to the contrary notwithstanding.

Public works
in Schedule A
and materials
for the same,
to be vested in
Her Majesty,
and under the
control of the
Commis-
sioners, and
others may be
made so by
proclamation.
Contracts for
leases of works
or tolls made
by the Board
of works to
enure to Her
Majesty.
Provided on cer-
tain conditions,
roads may be
transferred to
the District
Council.

XXIII. And be it enacted, That the several Public Works and Buildings enumerated in the Schedule to this Act marked A, and all materials and other things belonging thereto, or prepared and obtained for the use of the same, shall be and are hereby vested in Her Majesty, Her Heirs and Successors, and under the control of the said Commissioners for the purposes of this Act; and that it shall and may be lawful for the Governor in Council, from time to time, by proclamation, to declare such other works or buildings as shall be or may have been constructed at the public expense, to be Works or Buildings subject to the provisions of this Act and under the control of the said Commissioners; and all contracts, agreements or leases for any such work, or for any tolls for the same, entered into by the late Board of Works, or by any Commissioners duly authorized to enter into the same, shall enure to the use and benefit of Her Majesty, Her Heirs and Successors, and may be enforced as if entered into with Her Majesty: Provided always, that if the Council of any District in this Province shall pass any By-law securing, to the satisfaction of the Government of this Province, the payment of the interest on any sum of money expended on any Public Road in such District, and for which interest the Province is liable, it shall be lawful for the Governor, with the advice of the Executive Council, by proclamation, to transfer such Road to the District, and from and after the date of the proclamation the Road therein named shall be vested in such District, and the Council thereof shall have power to pass By-laws for the superintendence and management of such Road, the imposition and collection of tolls, and the imposition and levying of penalties for violation of the By-laws respecting such Road, and the tolls thereof.

Powers of the
District Coun-
cil in such
case.

Governor in
Council to ap-
point three Ar-

XXIV. And be it enacted, That the Governor in Council shall, from time to time, appoint three fit and proper persons who shall be Arbitrators or Appraisers for

for that portion of this Province formerly called Lower Canada, and also three fit and proper persons who shall be Arbitrators or Appraisers for that portion of this Province formerly called Upper Canada, (and shall and may remove any of the persons so appointed, and in the event of such removal or of the death or resignation of any of them, appoint others or another,) who shall, within the portions of the Province for which they are appointed, arbitrate on, appraise, determine and award the sum or sums which shall be paid to any owner or owners, occupier or occupiers, or person or persons representing such owner or owners, for the land or real estate which it may be necessary to take, either in perpetuity or temporarily for the use and purposes of the said public works, or any of them, as hereinbefore set forth, or as compensation for any loss or damage which may accrue to them from the construction of such public works, or any of them, and with whom the said Commissioners have not agreed and cannot agree, and whose claims have not been already settled for or adjusted under former laws: Provided always, that the decision of the said Arbitrators or Appraisers shall be subject to the jurisdiction of the Superior Courts of Law or Equity, within the jurisdiction whereof such arbitration shall have taken place, in like manner and to the same extent, and under the same regulations as apply to arbitrations by the submission of the respective parties; and any award made under this Act in that part of the Province formerly called Lower Canada, shall be liable to be set aside at the instance either of the Commissioners or of any party interested, by the judgment of any Court of competent jurisdiction in that part of the said Province, if the Court shall be of opinion that injustice has been done by the award to the party complaining, and that the value of the land, real property, or rights on which the award was given, shall in such case be finally determined by the judgment of the said Court: Provided always, that no such award shall be set aside in any case, unless the application to the Court shall be made within one year from the date of the said award: And it is hereby enacted, That the said Arbitrators or Appraisers shall be allowed, for every day of their attendance to the duties of such arbitration, the sum of twenty shillings, and that they shall meet on each or any public work at such time or times as may be named by the Governor, for awarding on claims connected with the particular work.

Arbitrators for
Lower and
three for
Upper Canada.

Their duties.

proviso—the
award of such
Arbitrators to
be subject to
the control of
the Courts, as
awards of
other Arbitra-
tors.

Proviso: appli-
cation must be
made within
one year.

Allowance to
Arbitrators for
their services.

XXV. And be it enacted, That it shall be lawful for the Governor in Council to refer to the said Arbitrators for their decision, any unsettled claim or claims for property taken, or for alleged direct or consequent damages to property arising from the construction, or connected with the execution of any public works in any part of this Province, heretofore undertaken, commenced or performed at the expense of this Province, or of either of the late Provinces of Upper Canada or of Lower Canada; and also, any unsettled claim or claims arising or to arise out of or connected with the execution or fulfilment, or on account of deductions made for the non-execution or non-fulfilment of any contract or contracts for the performance of any such public work as aforesaid, or any part thereof, made and entered into with the said Commissioners, or with any other Board or any Commissioners lawfully authorized to enter into the same on behalf of the Province; and that the said Arbitrators, within the respective portions of the Province for which they are appointed, shall have the like power and authority to and for all intents and purposes whatsoever, and be subject to the same rules and limitations in the decision of any claim so referred to them, as are given, conferred, expressed and set forth

The Governor
in Council
may refer any
unsettled
claim for dam-
ages arising
from any pub-
lic work or
any contract
relative there-
to, to the said
Arbitrators al-
though such
damages have
arisen before
the passing of
this Act.

forth in this Act, in regard to claims submitted to them in pursuance of the foregoing provisions thereof.

This Act not to affect proceedings in any action commenced before the passing thereof.

XXVI. And be it enacted, That nothing in this Act contained shall prevent, or be construed to prevent any action or actions, or other proceedings in Law or in Equity, instituted before the passing of this Act, and still pending, in which the Board of Works as now constituted is a party, from being continued to final judgment, or discontinued, or otherwise dealt with as if this Act had not been passed.

Arbitrators to be sworn.

XXVII. And be it enacted, That the said Arbitrators or Appraisers so appointed shall take, before the Chief Commissioner or some one of Her Majesty's Justices of the Peace, the following oath :

Their oath.

" I, A. B., do swear that I will well and truly try, hear and examine into such claims as may be submitted to me for compensation for land or real property proposed to be taken possession of for the use and purposes of (*as the case may be.*) and that I will also well and truly examine into such claims for compensation for damages consequent upon the construction of the said work ; and that I will give a true judgment and award thereon to the best of my knowledge and ability ; and that in determining such award I will take into due consideration the benefit to be derived to the persons making such claims as aforesaid, as well as the injury done thereby. So help me God."

Arbitrators to have power to summon witnesses ;

And to swear them.

Penalty for refusing to obey such summons.

Proviso—what documents witnesses may be compelled to produce.
Payment of witnesses.

XXVIII. And be it enacted, That the said Arbitrators and Appraisers shall have full power and authority, by summons or order in writing, to be left at the last usual place of residence of the party to whom it is addressed, to command the attendance of all witnesses or the production of any documents that may be required by any of the parties, and to swear the said witnesses to testify respecting the matters on which they shall be interrogated ; and the disobedience of such summons or order in writing, or neglect to attend and produce such documents as aforesaid, shall subject the party disobeying, neglecting or refusing, to a penalty of not less than one pound nor more than five pounds, to be recovered before any Justice of the Peace, and levied by distress and sale of the goods and chattels of the offender under the warrant of such Justice, unless the party shall establish reasonable cause for such disobedience, neglect or refusal : Provided, that no person shall be compelled to produce any document that he would not be compelled to produce at a trial in the Queen's Bench, or to attend as a witness more than two consecutive days ; and that each of the said witnesses shall be allowed a sum not exceeding five shillings a day, at the discretion of the said Arbitrators ; and that such remuneration shall be paid by the party requiring their attendance.

Arbitrators shall consider the advantages as well as the disadvantages of any work to the party claiming damages.

XXIX. And be it enacted, That the Arbitrators or Appraisers appointed under this Act, shall be empowered and are hereby required to consider the advantages as well as the disadvantage of such public work or works, as respects the land or real estate of any person or persons through which the same shall pass or to which it is contiguous, or as regards any claim for compensation for damages which may be brought before them ; and the said Arbitrators and Appraisers shall and may and are hereby empowered and required, in assessing the value of any land or real estate,

estate, proposed to be taken for the purposes of the said works as aforesaid, or in estimating and awarding the amount of damages to be paid by the said Commissioners to any person or persons under the provisions of this Act, to take into consideration the advantages likely to accrue as well as the injury or damage occasioned by reason of the said public works: Provided always, that such Arbitrators shall not in any case award that any sum be paid by any person or persons to the said Commissioners, on account of any such advantages as aforesaid.

Proviso—no party to be obliged to pay any sum to the Commissioners for such advantages.

XXX. And be it enacted, That if any claim shall be brought forward for any land or real estate, or for any damage or thing done in pursuance of this Act, or in execution of the powers and authorities therein given, every such claim shall be brought within twelve calendar months next after such land or real estate has been taken, or damage committed, and not afterwards, unless such claim shall have arisen before the passing of this Act, in which case it shall be brought within nine months after the passing thereof.

Claims for damages to be brought within a certain time.

XXXI. And be it enacted, That it shall be the duty of the said Arbitrators or Appraisers to furnish the said Commissioners with a copy of their award, and a copy thereof to each individual as far as relates to his particular claims, within one month after the close of each sitting or decision, in order that the amounts awarded may be paid them by the said Commissioners, within four months thereafter, in accordance with the provisions of this Act.

Arbitrators to furnish copies of their awards in order that the sum awarded may be paid.

XXXII. And be it enacted, That it shall be the duty of the Secretary, with such assistance as may be found necessary and as may be authorized by the Governor in Council, to keep separate accounts of the monies appropriated for and expended on each public work, to submit the said accounts at such times as may be ordered by the Governor in Council, to be audited in any manner that may hereafter be appointed for that purpose by the Governor in Council, to have charge of and keep all plans, contracts, estimates and documents, models or other things relative to any such work, to keep regular accounts with each contractor or other person employed by the said Commissioners, to see that all contracts made with the said Commissioners are properly drawn out, prepared and executed, to draw all certificates upon which any warrant is to issue as hereinafter mentioned, to prepare all reports to be submitted to the Commissioners for their adoption, and to receive and answer, according to the instructions he may receive from the Commissioners, all letters to or from the Commissioners or other persons on the business thereof, to keep minutes of all their proceedings, to keep copies of all correspondence, to have the general superintendence of all other matters and things which he may be instructed to superintend by the Commissioners, and generally to do all ministerial acts connected with the business of the Commissioners which they may direct him to do or which may devolve on him by a fair construction of the meaning and intent of this Act, in all cases not expressly provided for; Provided always, that it shall be lawful for the Governor to require any person or persons whomsoever having in their possession any instruments, plans, papers, books, drawings, models, estimates, or documents relative to any public work and belonging to the Province, to deliver the same to the said Secretary, and also from time to time to place in his charge and keeping for the uses of the Commissioners, any instruments, books, drawings, models or documents relative

Duties of the Secretary.

Accounts.

Plans, &c.

Contractors and contracts.

Certificates for warrants.

Reports
Correspondence.

Minutes of proceedings.
General superintendence, and duties.

Proviso: the Governor may cause plans, &c., relative to public works to be placed under the care of the Secretary.

to

to the objects for which the said Commissioners are constituted, which may be the property of the Province, and required for the better attainment of the objects of the Commissioners and of this Act.

The Commissioners may send for persons and examine them on oath touching matters referred to them.

Payment of such persons.
Penalty for non-attendance.

XXXIII. And be it enacted, That the said Commissioners shall have power to send for and examine, on oath, all such persons as they shall deem necessary to examine, touching any matter referred to, or upon which the action of the Commissioners is necessary, and to cause such persons to bring with them such papers, documents and things as it may be necessary to examine with reference to such matter, and to pay such persons a reasonable compensation for their time and disbursements at the discretion of the Commissioners; and such persons shall be bound to attend at the summons of the Commissioners, after due notice, under the penalty of five pounds, currency.

The Commissioners may require accounts to be attested on oath, and may administer such oath.

False swearing to be perjury.

XXXIV. And be it enacted, That the Commissioners may require any account sent in by any contractor, or any person in their employ, to be attested on oath, which oath, as well as the oath to be taken by any witness, the Secretary or any Commissioner may administer; and any false statement wilfully made under any such oath, or in any case where an oath is required or authorized by this Act, shall be perjury.

On what certificate warrants may issue for the payment of monies for public works.

XXXV. And be it enacted, That no warrant shall be issued for any sum of the public money appropriated or that may hereafter be appropriated for any public work under the superintendence of the said Commissioners, except on the certificate of the Chief Commissioner, or in his absence, of the Assistant Commissioner, that such sum ought to be paid to the person or persons named in the certificate, in whose favour a warrant may be issued accordingly.

Money to a certain amount may be advanced to the Secretary.

XXXVI. Provided always, and be it enacted, That it shall be lawful for the Chief Commissioner from time to time to grant such certificates in favour of the Secretary, for such sums as may be necessary to meet any disbursements allowed to him or the other Commissioner when on duty, or which the Commissioners may order to be made immediately by the Secretary, in any Report approved by the Governor; but the sum which shall at any one time be in the hands of the said Secretary shall in no case exceed five hundred pounds, currency.

Detailed accounts of the monies advanced or paid for any public work to be made up by the Secretary.

XXXVII. And be it enacted, That the said Secretary shall make up detailed accounts of the expenditure of all monies advanced or paid under certificates of the Commissioners, showing the sum appropriated for each public work, the sum so paid or advanced, and the balance, if any, remaining unexpended, and in whose hands; and each account shall be accompanied by vouchers, corresponding with the numbering of the items of such account, and shall be made up to and closed on the first day of January and the first day of July, in each year, and shall be attested before a Judge of some Court of Queen's Bench, or before some Justice of the Peace, and shall be transmitted to the Inspector General, within one month after the said periods respectively.

This Act not to authorize the payment of

XXXVIII. And be it enacted, That nothing in this Act contained shall be taken or construed to authorize the expenditure of any greater or further sum of money in

in the payment of the yearly salaries of the Commissioners and Secretary, or in the payment of their travelling expenses or actual disbursements, than is at present provided for by an Act of the Imperial Parliament of Great Britain and Ireland, passed in the Session held in the third and fourth years of the Reign of our Sovereign Lady Queen Victoria, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, for the Board of Works, or than shall be provided in any Civil List to be hereafter granted to Her Majesty, Her Heirs and Successors.

XXXIX. And whereas it is necessary to repeal all such Acts and Enactments as are inconsistent with this Act, or make other provision in any matter provided for by this Act: Be it therefore enacted, That the Act of the Legislature of Lower Canada, passed in the third year of the Reign of His Majesty King George the Fourth, and intituled, *An Act to grant an aid to His Majesty for the purpose of making a navigable Canal from or near the Town of St. Johns, to the Basin of Chambly upon the River Sorel or Richelieu*; and the Ordinance of the said Legislature, passed in the second year of Her Majesty's Reign, and intituled, *An Ordinance to authorize the Commissioners for making the Canal from St. John to Chambly, to borrow a certain sum of money to complete the said Canal*; and the Act of the said Legislature, passed in the Session held in the third and fourth years of Her Majesty's Reign, and intituled, *An Act to amend and render permanent an Ordinance passed in the second year of Her Majesty's Reign, intituled, 'An Ordinance to authorize the Commissioners for making the Canal from St. John to Chambly, to borrow a certain sum of money to complete the said Canal'*; and the Act of the said Legislature, passed in the first year of the Reign of His Majesty King George the Fourth, and intituled, *An Act for making a navigable Canal from the neighbourhood of Montreal to the Parish of Lachine, and to appropriate a certain sum of money for that purpose, and to repeal a certain Act therein mentioned*; and the Act of the said Legislature, passed in the sixth year of the same Reign, and intituled, *An Act to alter and diminish certain Rates and Tolls of the Lachine Canal, for a limited time, and for other purposes*; and the Act of the said Legislature, passed in the fourth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to provide for the making of certain improvements about the Lachine Canal*; and the Act of the said Legislature passed in the sixth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to provide for the management and care of the Lachine Canal, and to establish certain Rates, Tolls and Duties to be taken thereon*; and the Ordinance of the said Legislature, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to declare and regulate the Tolls to be taken on the Bridge over the Cap Rouge River, and for other purposes relative to the said Bridge*; with so much of the Ordinance of the said Legislature passed in the same year of Her Majesty's Reign, and intituled, *An Ordinance to provide for the improvement of certain Rouds in the neighbourhood of and leading to the City of Quebec, and to raise a fund for that purpose*; as in any way relates to the said Bridge over the Cap Rouge River; and the Act of the said Legislature, passed in the Session held in the tenth and eleventh years of the Reign of His Majesty King George the Third, and intituled, *An Act to appropriate a certain sum of money to the erection of a Bridge over the River Chaudière*; and the Act of the said Legislature, passed in the sixth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to appropriate a certain sum of money*

a greater sum for certain purposes than is authorized by the Union Act.

Or by any future Civil List.

Acts repealed:

Chambly Canal.

L. C.
3 Geo. 4. cap. 41.

L. C.
2 Vict. (3) cap. 61.

L. C.
3 & 4 Vict. cap. 20.

Lachine Canal.

L. C.
1 Geo. 4. cap. 6.

L. C.
6 Geo. 4. cap. 3.

L. C.
4 Will. 4. cap. 12.

L. C.
6 Will. 4. cap. 22.

Cap Rouge Bridge.

L. C.
4 Vict. cap. 21.

L. C.
4 Vict. cap. 17.

Chaudière Bridge.

L. C.
10 & 11 Geo. 4. cap. 11.

Saint Anne Bridge.

L. C.
6 Will. 4. cap. 41.

- Saint Maurice Bridge.*
L. C.
2 Will. 4. cap. 11.
Burlington Bay Canal.
U. C.
4 Geo. 4. cap. 8.
U. C.
4 Geo. 4. (2nd Sess.) cap. 16.
U. C.
9 Geo. 4. cap. 12.
U. C.
11 Geo. 4. cap. 12.
U. C.
7 Will. 4. cap. 91.
St. Lawrence Canal.
U. C.
3 Will. 4. cap. 18.
U. C.
4 Will. 4. cap. 10.
U. C.
7 Will. 4. cap. 45.
Inland Waters of the Newcastle District.
U. C.
3 Will. 4. cap. 33.
U. C.
6 Will. 4. cap. 39.
U. C.
7 Will. 4. cap. 53.
Port Stanley.
U. C.
8 Geo. 4. cap. 18.
U. C.
2 Vict. cap. 24.
Toronto Harbour and Lights.
U. C.
3 Will. 4. cap. 32.
- money for the construction of a Bridge over the River Saint Anne, in the County of Champlain ; and the Act of the said Legislature, passed in the second year of the Reign of His late Majesty King William the Fourth, and intituled, An Act to appropriate a certain sum of money for the erection of a Bridge over the River Saint Maurice ; and the Act of the Legislature of Upper Canada, passed in the fourth year of the Reign of His late Majesty King George the Fourth, and intituled, An Act to provide for constructing a navigable Canal between Burlington Bay and Lake Ontario ; and the Act of the said Legislature, passed in the same year of the same Reign, (Second Session,) and intituled, An Act to amend and extend the provisions of an Act passed in the last Session of Parliament, intituled, ' An Act to provide for constructing a navigable Canal between Burlington Bay and Lake Ontario ;' and the Act of the said Legislature, passed in the ninth year of the same Reign, and intituled, An Act to provide for the valuation of the labour and materials applied in constructing the Harbour at Burlington Bay, and for other purposes relating to the said Harbour ; and the Act of the said Legislature, passed in the eleventh year of the same Reign, and intituled, An Act to afford further aid to complete the Burlington Bay Canal, and for other purposes relative to the said Canal ; and the Act of the said Legislature, passed in the seventh year of the Reign of His late Majesty King William the Fourth, and intituled, An Act for granting a sum of money to complete the Burlington Bay Canal, and for other purposes therein mentioned ; and the Act of the said Legislature, passed in the third year of the same Reign, and intituled, An Act granting to His Majesty a sum of money, to be raised by Debentures, for the improvement of the navigation of the River Saint Lawrence ; and the Act of the said Legislature, passed in the fourth year of the same Reign, and intituled, An Act to repeal part of, amend and extend the provisions of an Act passed in the last Session of the present Parliament, intituled, ' An Act granting to His Majesty a sum of money, to be raised by Debentures, for the improvement of the navigation of the River Saint Lawrence ;' and the Act of the said Legislature, passed in the seventh year of the same Reign, and intituled, An Act to amend the Law for the improvement of the navigation of the Saint Lawrence ; and the Act of the said Legislature, passed in the third year of the same Reign, and intituled, An Act to provide for the improvement of certain Inland Waters in the District of Newcastle ; and the Act of the said Legislature, passed in the sixth year of the same Reign, and intituled, An Act to improve the Navigation of the Inland Waters of the District of Newcastle ; and the Act of the said Legislature passed in the seventh year of the same reign, and intituled, An Act to amend an Act passed during the last Session, intituled, ' An Act to improve the navigation of the Inland Waters of the District of Newcastle ;' and the Act of the said Legislature, passed in the seventh year of the same Reign, intituled, An Act granting to His Majesty a sum of money, to be raised by Debentures, for the improvement of the navigation of the River Trent ; and the Act of the said Legislature, passed in the eighth year of the Reign of His Majesty King George the Fourth, and intituled, An Act to provide for the construction of a Harbour at the mouth of Kettle Creek, in the London District ; and the Act of the said Legislature, passed in the second year of Her Majesty's Reign, and intituled, An Act for granting a sum of money to improve and keep in repair the Kettle Creek Harbour, at Port Stanley ; and the Act of the said Legislature, passed in the third year of the Reign of His late Majesty King William the Fourth, and intituled, An Act granting a sum of money for the construction of works to improve and preserve the Harbour of York, and for other*

other purposes therein mentioned; and the Act of the said Legislature, passed in the seventh year of the same Reign, and intituled, *An Act for granting a certain sum of money to complete the improvement of the Harbour of Toronto*; and the Act of the said Legislature, passed in the same year of the same Reign, and intituled, *An Act granting a sum of money for the erection of a Toll-Bridge over the River Thames, at Chatham, in the Western District*; and the Act of the said Legislature, passed in the third year of Her Majesty's Reign, and intituled, *An Act granting a further sum of three hundred and fifty-nine pounds, for completing the Bridge over the River Thames, at Chatham, in the Western District*; and the Act of the said Legislature, passed in the fourth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to grant a sum of money to defray the expense of erecting a Bridge over the Grand River, at Dunnville, and for other purposes therein contained*; and the Act of the said Legislature, passed in the same year of the same Reign, and intituled, *An Act granting a sum of money to defray the expense of erecting a Bridge over the Grand River, at Paris, and for other purposes therein mentioned*; and the Act of the said Legislature, passed in the third year of the same Reign, and intituled, *An Act granting a sum of money to defray the expense of erecting a Bridge over the Grand River, at Brantford, and for other purposes therein mentioned*; and the Act of the said Legislature, passed in the same year of the same Reign, and intituled, *An Act to provide for the erection of a Bridge across the River Trent, and for other purposes therein mentioned*; and so much of the Act of the Legislature of this Province, passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to make provision for the levying of Tolls on certain Public Works, and for the use of the said Works*, as vested in the Board of Works, any of the Public Works mentioned in the Schedule to the said Act,—Excepting always, so much of any of the said Acts as provides for the payment, out of the public monies of this Province, of the principal and interest remaining unpaid on any Debentures or other public debt issued or contracted under the authority of any of the said Acts, and the payment of which has not been since otherwise provided for, or as relates to the forging or counterfeiting of any such Debenture, or the using of any so forged or counterfeited,—and saving all rights actually accrued to and vested in any party before the passing of this Act, shall be and the said Acts, with the exception aforesaid, are hereby repealed, together with all such provisions and enactments of any Act or Ordinance of the said Legislatures or of the Legislature of this Province, as may vest in any Commissioners or other party any of the said public works or property, or any rights or powers respecting the same, or as may fix the rates of Toll on any public works, or as may be in any wise inconsistent with or repugnant to the provisions of this Act.

XL. And be it enacted, That the due application of all monies expended by or under the superintendence of the said Commissioners shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of the Treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

XLI. And be it enacted, That the word "Governor," wherever it occurs in this Act, shall be construed to include the Lieutenant Governor or person administering the Government of this Province; and the words "Governor in Council" shall mean the Governor, Lieutenant Governor, or person administering the government

U. C.
7 Will. 4 cap.
64.

Chatham
Bridge.

U. C.
7 Will. 4. cap.
83.

U. C.
3 Vict. cap. 51.
Dunnville
Bridge.

U. C.
4 Will. 4. cap.
43.

Paris Bridge.

U. C.
4 Will. 4. cap.
44.

Brantford
Bridge.

U. C.
3 Will. 4. cap.
30.

Toronto
Bridge.

U. C.
3 Will. 4. cap.
34.

Tolls.
8 Vict. cap. 3.

Provisions of
the said Acts.
excepted.

All other pro-
visions and
amendments
inconsistent
with this Act
repealed.

Accounting
clause.

Interpretation
clause.

government of this Province, acting by and with the advice of the Executive Council thereof; the word "Commissioners," shall mean the Commissioners to be appointed under this Act, and all words importing the singular number or the masculine gender only, shall be construed to extend to the plural number, and to females as well as males, unless there be something in the subject or context inconsistent with such interpretation.

This Act to be
a public Act.

XLII. And be it enacted, That this Act shall be deemed and taken to be a public Act, and as such shall be judicially taken notice of by all Judges and other persons and in all Courts, without being specially pleaded.

SCHEDULE A.

PUBLIC WORKS VESTED IN THE CROWN BY THIS ACT.

NAVIGATIONS, CANALS AND SLIDES.

The Welland Canal and Feeder, together with the portion of the Grand River, from Cayuga Bridge to its mouth.

The Welland River, from Port Robinson to its mouth, and the Cut at the Chippewa.

All such portions of the Saint Lawrence Navigation, from Kingston to the Port of Montreal, as have been or shall be improved at the expense of the Province.

The Lock and Dam at Saint Anne's.

The Scugog River Navigation, and the Navigations connected therewith, viz: From the head of the Lake Scugog to Fenelon Falls, and from thence to Mud Lake and Buckhorn Rapids, by Sturgeon, Pigeon, and Buckhorn Lakes. Provided always, that this shall not divest the proprietors of the hydraulic privilege heretofore occupied, possessed or enjoyed by them, or enable Her Majesty, Her Heirs or Successors to grant any new privilege to other parties.

That portion of the Otonabec River, between Peterborough and Rice Lake, with the Lock and Dam at Whitlas' Rapids.

The Rice Lake, and the River Trent from thence to its mouth, including the Locks, Dams and Slides between those points.

All such portions of the Ottawa River, from Bytown upwards, as have been or shall be improved at the expense of the Province.

The Lock and other improvements on the River Richelieu.

The Madawaska River, from the head of the Ragged Chute to the Chats' Lake.

H A R B O U R S.

LAKE ERIE

Rondeau Harbour, including the Piers, Breakwaters, and Inner Basin.

Port Stanley Harbour and Inner Basin.

Port Burwell do. do.

Port Dover do. do.

Port Maitland do. do.

Port Colborne do. do.

LAKE ONTARIO.

Port Dalhousie Harbour,

Burlington Bay Canal.

Windsor Harbour.

R O A D S.

The Main Provincial Road from Quebec to Sandwich.

The Main Road from Queenston to Hamilton.

The Port Hope and Rice Lake Road.

The Windsor, Scugog and Narrows Bridge Road.

The Main North Road, from Toronto to Lake Huron, at Penetanguishene.

The Hamilton and Port Dover Road.

The London and Port Stanley Road.

Except the Montreal and Quebec Turnpike Trusts, and such portions of the said Roads, respectively, as may lie within the limits of any incorporated City or Town, or as shall from time to time be exempted by Proclamation issued by order of the Governor in Council, from the operations of this Act, which portions shall, during the period of such exemption, remain subject to the same authorities and provisions of Law as if this Act had not been passed. The Tolls collected under this Act upon each Road being applicable to the improvement of the Road, and the extension of the improved portion thereof, and the debt due by any Commissioners, District or public body on that portion of any road which shall be under

under the control of the Commissioners of the Public Works, being thereafter payable out of the Provincial Funds.

B R I D G E S .

The Chaudière Bridge near Quebec.

The Cap Rouge Bridge.

The St. Anne de la Pérade Bridge.

The Batiscan Bridge

The Saint Maurice Bridge

The Union Suspension and other Bridges over the Ottawa River between Bytown and Hull.

The Trent Bridge at the mouth of the Trent.

The Bridge at the Narrows of Lake Simcoe.

The Dunnville Bridge.

The Caledonia Bridge.

The Brantford Bridge.

The Paris Bridge.

The Delaware Bridge.

The Chatham Bridge.

And all other Canals, Locks, Dams, Slides, Bridges, Roads or other Public Works, of a like nature, constructed or to be constructed, repaired or improved at the expense of the Province.

led CANALS.

[illegible]

forth in this Act, in regard to claims submitted to them in pursuance of the foregoing provisions thereof.

This Act not to affect proceedings in any action commenced before the passing thereof.

XXVI. And be it enacted, That nothing in this Act contained shall prevent, or be construed to prevent any action or actions, or other proceedings in Law or in Equity, instituted before the passing of this Act, and still pending, in which the Board of Works as now constituted is a party, from being continued to final judgment, or discontinued, or otherwise dealt with as if this Act had not been passed.

Arbitrators to be sworn.

XXVII. And be it enacted, That the said Arbitrators or Appraisers so appointed shall take, before the Chief Commissioner or some one of Her Majesty's Justices of the Peace, the following oath :

Their oath.

" I, A. B., do swear that I will well and truly try, hear and examine into such claims as may be submitted to me for compensation for land or real property proposed to be taken possession of for the use and purposes of (*as the case may be.*) and that I will also well and truly examine into such claims for compensation for damages consequent upon the construction of the said work ; and that I will give a true judgment and award thereon to the best of my knowledge and ability ; and that in determining such award I will take into due consideration the benefits to be derived to the persons making such claims as aforesaid, as well as the injury done thereby. So help me God."

Arbitrators to have power to summon witnesses ;

And to swear them.

Penalty for refusing to obey such summons.

Proviso—what documents witnesses may be compelled to produce.
Payment of witnesses.

XXVIII. And be it enacted, That the said Arbitrators and Appraisers shall have full power and authority, by summons or order in writing, to be left at the last usual place of residence of the party to whom it is addressed, to command the attendance of all witnesses or the production of any documents that may be required by any of the parties, and to swear the said witnesses to testify respecting the matters on which they shall be interrogated ; and the disobedience of such summons or order in writing, or neglect to attend and produce such documents as aforesaid, shall subject the party disobeying, neglecting or refusing, to a penalty of not less than one pound nor more than five pounds, to be recovered before any Justice of the Peace, and levied by distress and sale of the goods and chattels of the offender under the warrant of such Justice, unless the party shall establish reasonable cause for such disobedience, neglect or refusal : Provided, that no person shall be compelled to produce any document that he would not be compelled to produce at a trial in the Queen's Bench, or to attend as a witness more than two consecutive days ; and that each of the said witnesses shall be allowed a sum not exceeding five shillings a day, at the discretion of the said Arbitrators ; and that such remuneration shall be paid by the party requiring their attendance.

Arbitrators shall consider the advantages as well as the disadvantages of any work to the party claiming damages.

XXIX. And be it enacted, That the Arbitrators or Appraisers appointed under this Act, shall be empowered and are hereby required to consider the advantages as well as the disadvantage of such public work or works, as respects the land or real estate of any person or persons through which the same shall pass or to which it is contiguous, or as regards any claim for compensation for damages which may be brought before them ; and the said Arbitrators and Appraisers shall and may and are hereby empowered and required, in assessing the value of any land or real estate,

estate, proposed to be taken for the purposes of the said works as aforesaid, or in estimating and awarding the amount of damages to be paid by the said Commissioners to any person or persons under the provisions of this Act, to take into consideration the advantages likely to accrue as well as the injury or damage occasioned by reason of the said public works: Provided always, that such Arbitrators shall not in any case award that any sum be paid by any person or persons to the said Commissioners, on account of any such advantages as aforesaid.

Proviso—no party to be obliged to pay any sum to the Commissioners for such advantages.

XXX. And be it enacted, That if any claim shall be brought forward for any land or real estate, or for any damage or thing done in pursuance of this Act, or in execution of the powers and authorities therein given, every such claim shall be brought within twelve calendar months next after such land or real estate has been taken, or damage committed, and not afterwards, unless such claim shall have arisen before the passing of this Act, in which case it shall be brought within nine months after the passing thereof.

Claims for damages to be brought within a certain time.

XXXI. And be it enacted, That it shall be the duty of the said Arbitrators or Appraisers to furnish the said Commissioners with a copy of their award, and a copy thereof to each individual as far as relates to his particular claims, within one month after the close of each sitting or decision, in order that the amounts awarded may be paid them by the said Commissioners, within four months thereafter, in accordance with the provisions of this Act.

Arbitrators to furnish copies of their awards in order that the sum awarded may be paid.

XXXII. And be it enacted, That it shall be the duty of the Secretary, with such assistance as may be found necessary and as may be authorized by the Governor in Council, to keep separate accounts of the monies appropriated for and expended on each public work, to submit the said accounts at such times as may be ordered by the Governor in Council, to be audited in any manner that may hereafter be appointed for that purpose by the Governor in Council, to have charge of and keep all plans, contracts, estimates and documents, models or other things relative to any such work, to keep regular accounts with each contractor or other person employed by the said Commissioners, to see that all contracts made with the said Commissioners are properly drawn out, prepared and executed, to draw all certificates upon which any warrant is to issue as hereinafter mentioned, to prepare all reports to be submitted to the Commissioners for their adoption, and to receive and answer, according to the instructions he may receive from the Commissioners, all letters to or from the Commissioners or other persons on the business thereof, to keep minutes of all their proceedings, to keep copies of all correspondence, to have the general superintendence of all other matters and things which he may be instructed to superintend by the Commissioners, and generally to do all ministerial acts connected with the business of the Commissioners which they may direct him to do or which may devolve on him by a fair construction of the meaning and intent of this Act, in all cases not expressly provided for; Provided always, that it shall be lawful for the Governor to require any person or persons whomsoever having in their possession any instruments, plans, papers, books, drawings, models, estimates, or documents relative to any public work and belonging to the Province, to deliver the same to the said Secretary, and also from time to time to place in his charge and keeping for the uses of the Commissioners, any instruments, books, drawings, models or documents relative to

Duties of the Secretary.

Accounts.

Plans, &c.

Contractors and contracts.

Certificates for warrants.

Reports
Correspondence.

Minutes of proceedings.
General superintendence, and duties.

Proviso: the Governor may cause plans, &c., relative to public works to be placed under the care of the Secretary.

to

to the objects for which the said Commissioners are constituted, which may be the property of the Province, and required for the better attainment of the objects of the Commissioners and of this Act.

The Commissioners may send for persons and examine them on oath touching matters referred to them.

Payment of such persons.
Penalty for non-attendance.

XXXIII. And be it enacted, That the said Commissioners shall have power to send for and examine, on oath, all such persons as they shall deem necessary to examine, touching any matter referred to, or upon which the action of the Commissioners is necessary, and to cause such persons to bring with them such papers, documents and things as it may be necessary to examine with reference to such matter, and to pay such persons a reasonable compensation for their time and disbursements at the discretion of the Commissioners; and such persons shall be bound to attend at the summons of the Commissioners, after due notice, under the penalty of five pounds, currency.

The Commissioners may require accounts to be attested on oath, and may administer such oath.

False swearing to be perjury.

XXXIV. And be it enacted, That the Commissioners may require any account sent in by any contractor, or any person in their employ, to be attested on oath, which oath, as well as the oath to be taken by any witness, the Secretary or any Commissioner may administer; and any false statement wilfully made under any such oath, or in any case where an oath is required or authorized by this Act, shall be perjury.

On what certificate warrants may issue for the payment of monies for public works.

XXXV. And be it enacted, That no warrant shall be issued for any sum of the public money appropriated or that may hereafter be appropriated for any public work under the superintendence of the said Commissioners, except on the certificate of the Chief Commissioner, or in his absence, of the Assistant Commissioner, that such sum ought to be paid to the person or persons named in the certificate, in whose favour a warrant may be issued accordingly.

Money to a certain amount may be advanced to the Secretary.

XXXVI. Provided always, and be it enacted, That it shall be lawful for the Chief Commissioner from time to time to grant such certificates in favour of the Secretary, for such sums as may be necessary to meet any disbursements allowed to him or the other Commissioner when on duty, or which the Commissioners may order to be made immediately by the Secretary, in any Report approved by the Governor; but the sum which shall at any one time be in the hands of the said Secretary shall in no case exceed five hundred pounds, currency.

Detailed accounts of the monies advanced or paid for any public work to be made up by the Secretary.

XXXVII. And be it enacted, That the said Secretary shall make up detailed accounts of the expenditure of all monies advanced or paid under certificates of the Commissioners, showing the sum appropriated for each public work, the sum so paid or advanced, and the balance, if any, remaining unexpended, and in whose hands; and each account shall be accompanied by vouchers, corresponding with the numbering of the items of such account, and shall be made up to and closed on the first day of January and the first day of July, in each year, and shall be attested before a Judge of some Court of Queen's Bench, or before some Justice of the Peace, and shall be transmitted to the Inspector General, within one month after the said periods respectively.

This Act not to authorize the payment of

XXXVIII. And be it enacted, That nothing in this Act contained shall be taken or construed to authorize the expenditure of any greater or further sum of money in

in the payment of the yearly salaries of the Commissioners and Secretary, or in the payment of their travelling expenses or actual disbursements, than is at present provided for by an Act of the Imperial Parliament of Great Britain and Ireland, passed in the Session held in the third and fourth years of the Reign of our Sovereign Lady Queen Victoria, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, for the Board of Works, or than shall be provided in any Civil List to be hereafter granted to Her Majesty, Her Heirs and Successors.

a greater sum for certain purposes than is authorized by the Union Act.

Or by any future Civil List.

XXXIX. And whereas it is necessary to repeal all such Acts and Enactments as are inconsistent with this Act, or make other provision in any matter provided for by this Act: Be it therefore enacted, That the Act of the Legislature of Lower Canada, passed in the third year of the Reign of His Majesty King George the Fourth, and intituled, *An Act to grant an aid to His Majesty for the purpose of making a navigable Canal from or near the Town of St. Johns, to the Basin of Chambly upon the River Sorel or Richelieu*; and the Ordinance of the said Legislature, passed in the second year of Her Majesty's Reign, and intituled, *An Ordinance to authorize the Commissioners for making the Canal from St. John to Chambly, to borrow a certain sum of money to complete the said Canal*; and the Act of the said Legislature, passed in the Session held in the third and fourth years of Her Majesty's Reign, and intituled, *An Act to amend and render permanent an Ordinance passed in the second year of Her Majesty's Reign, intituled, 'An Ordinance to authorize the Commissioners for making the Canal from St. John to Chambly, to borrow a certain sum of money to complete the said Canal'*; and the Act of the said Legislature, passed in the first year of the Reign of His Majesty King George the Fourth, and intituled, *An Act for making a navigable Canal from the neighbourhood of Montreal to the Parish of Lachine, and to appropriate a certain sum of money for that purpose, and to repeal a certain Act therein mentioned*; and the Act of the said Legislature, passed in the sixth year of the same Reign, and intituled, *An Act to alter and diminish certain Rates and Tolls of the Lachine Canal, for a limited time, and for other purposes*; and the Act of the said Legislature, passed in the fourth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to provide for the making of certain improvements about the Lachine Canal*; and the Act of the said Legislature passed in the sixth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to provide for the management and care of the Lachine Canal, and to establish certain Rates, Tolls and Duties to be taken thereon*; and the Ordinance of the said Legislature, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to declare and regulate the Tolls to be taken on the Bridge over the Cap Rouge River, and for other purposes relative to the said Bridge*; with so much of the Ordinance of the said Legislature passed in the same year of Her Majesty's Reign, and intituled, *An Ordinance to provide for the improvement of certain Roads in the neighbourhood of and leading to the City of Quebec, and to raise a fund for that purpose*; as in any way relates to the said Bridge over the Cap Rouge River; and the Act of the said Legislature, passed in the Session held in the tenth and eleventh years of the Reign of His Majesty King George the Third, and intituled, *An Act to appropriate a certain sum of money to the erection of a Bridge over the River Chaudière*; and the Act of the said Legislature, passed in the sixth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to appropriate a certain sum of money*

Acts repealed.

Chambly Canal.

L. C.
3 Geo. 4. cap. 41.

L. C.
2 Vict. (3) cap. 61.

L. C.
3 & 4 Vict. cap. 20.

Lachine Canal.

L. C.
1 Geo. 4. cap. 6.

L. C.
6 Geo. 4. cap. 3.

L. C.
4 Will. 4. cap. 12.

L. C.
6 Will. 4. cap. 22.

Cap Rouge Bridge.

L. C.
4 Vict. cap. 21.

L. C.
4 Vict. cap. 17.

Chaudière Bridge.

L. C.
10 & 11 Geo. 4. cap. 11.

Saint Anne Bridge.

L. C.
6 Will. 4. cap. 41.

*Saint Maurice
Bridge.*

L. C.
2 Will. 4. cap.
11.

*Burlington
Bay Canal.*

U. C.
4 Geo. 4. cap.
8.

U. C.
4 Geo. 4. (2nd
Sess.) cap. 16.

U. C.
9 Geo. 4. cap.
12.

U. C.
11 Geo. 4. cap.
12.

U. C.
7 Will. 4. cap.
91.

*St. Lawrence
Canal.*

U. C.
3 Will. 4. cap.
18.

U. C.
4 Will. 4. cap.
10.

U. C.
7 Will. 4. cap.
45.

*Inland Waters
of the Newcas-
tle District.*

U. C.
3 Will. 4. cap.
33.

U. C.
6 Will. 4. cap.
39.

U. C.
7 Will. 4. cap.
53.

Port Stanley.

U. C.
8 Geo. 4. cap.
18.

U. C.
2 Vict. cap. 24.
*Toronto Har-
bour and
Lights.*

U. C.
3 Will. 4. cap.
32.

money for the construction of a Bridge over the River Saint Anne, in the County of Champlain ; and the Act of the said Legislature, passed in the second year of the Reign of His late Majesty King William the Fourth, and intituled, An Act to appropriate a certain sum of money for the erection of a Bridge over the River Saint Maurice ; and the Act of the Legislature of Upper Canada, passed in the fourth year of the Reign of His late Majesty King George the Fourth, and intituled, An Act to provide for constructing a navigable Canal between Burlington Bay and Lake Ontario ; and the Act of the said Legislature, passed in the same year of the same Reign, (Second Session,) and intituled, An Act to amend and extend the provisions of an Act passed in the last Session of Parliament, intituled, ' An Act to provide for constructing a navigable Canal between Burlington Bay and Lake Ontario ;' and the Act of the said Legislature, passed in the ninth year of the same Reign, and intituled, An Act to provide for the valuation of the labour and materials applied in constructing the Harbour at Burlington Bay, and for other purposes relating to the said Harbour ; and the Act of the said Legislature, passed in the eleventh year of the same Reign, and intituled, An Act to afford further aid to complete the Burlington Bay Canal, and for other purposes relative to the said Canal ; and the Act of the said Legislature, passed in the seventh year of the Reign of His late Majesty King William the Fourth, and intituled, An Act for granting a sum of money to complete the Burlington Bay Canal, and for other purposes therein mentioned ; and the Act of the said Legislature, passed in the third year of the same Reign, and intituled, An Act granting to His Majesty a sum of money, to be raised by Debentures, for the improvement of the navigation of the River Saint Lawrence ; and the Act of the said Legislature, passed in the fourth year of the same Reign, and intituled, An Act to repeal part of, amend and extend the provisions of an Act passed in the last Session of the present Parliament, intituled, ' An Act granting to His Majesty a sum of money, to be raised by Debentures, for the improvement of the navigation of the River Saint Lawrence ;' and the Act of the said Legislature, passed in the seventh year of the same Reign, and intituled, An Act to amend the Law for the improvement of the navigation of the Saint Lawrence ; and the Act of the said Legislature, passed in the third year of the same Reign, and intituled, An Act to provide for the improvement of certain Inland Waters in the District of Newcastle ; and the Act of the said Legislature, passed in the sixth year of the same Reign, and intituled, An Act to improve the Navigation of the Inland Waters of the District of Newcastle ; and the Act of the said Legislature passed in the seventh year of the same reign, and intituled, An Act to amend an Act passed during the last Session, intituled, ' An Act to improve the navigation of the Inland Waters of the District of Newcastle ;' and the Act of the said Legislature, passed in the seventh year of the same Reign, intituled, An Act granting to His Majesty a sum of money, to be raised by Debentures, for the improvement of the navigation of the River Trent ; and the Act of the said Legislature, passed in the eighth year of the Reign of His Majesty King George the Fourth, and intituled, An Act to provide for the construction of a Harbour at the mouth of Kettle Creek, in the London District ; and the Act of the said Legislature, passed in the second year of Her Majesty's Reign, and intituled, An Act for granting a sum of money to improve and keep in repair the Kettle Creek Harbour, at Port Stanley ; and the Act of the said Legislature, passed in the third year of the Reign of His late Majesty King William the Fourth, and intituled, An Act granting a sum of money for the construction of works to improve and preserve the Harbour of York, and for other

other purposes therein mentioned; and the Act of the said Legislature, passed in the seventh year of the same Reign, and intituled, *An Act for granting a certain sum of money to complete the improvement of the Harbour of Toronto*; and the Act of the said Legislature, passed in the same year of the same Reign, and intituled, *An Act granting a sum of money for the erection of a Toll-Bridge over the River Thames, at Chatham, in the Western District*; and the Act of the said Legislature, passed in the third year of Her Majesty's Reign, and intituled, *An Act granting a further sum of three hundred and fifty-nine pounds, for completing the Bridge over the River Thames, at Chatham, in the Western District*; and the Act of the said Legislature, passed in the fourth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to grant a sum of money to defray the expense of erecting a Bridge over the Grand River, at Dunnville, and for other purposes therein contained*; and the Act of the said Legislature, passed in the same year of the same Reign, and intituled, *An Act granting a sum of money to defray the expense of erecting a Bridge over the Grand River, at Paris, and for other purposes therein mentioned*; and the Act of the said Legislature, passed in the third year of the same Reign, and intituled, *An Act granting a sum of money to defray the expense of erecting a Bridge over the Grand River, at Brantford, and for other purposes therein mentioned*; and the Act of the said Legislature, passed in the same year of the same Reign, and intituled, *An Act to provide for the erection of a Bridge across the River Trent, and for other purposes therein mentioned*; and so much of the Act of the Legislature of this Province, passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to make provision for the levying of Tolls on certain Public Works, and for the use of the said Works*, as vested in the Board of Works, any of the Public Works mentioned in the Schedule to the said Act,—Excepting always, so much of any of the said Acts as provides for the payment, out of the public monies of this Province, of the principal and interest remaining unpaid on any Debentures or other public debt issued or contracted under the authority of any of the said Acts, and the payment of which has not been since otherwise provided for, or as relates to the forging or counterfeiting of any such Debenture, or the using of any so forged or counterfeited,—and saving all rights actually accrued to and vested in any party before the passing of this Act, shall be and the said Acts, with the exception aforesaid, are hereby repealed, together with all such provisions and enactments of any Act or Ordinance of the said Legislatures or of the Legislature of this Province, as may vest in any Commissioners or other party any of the said public works or property, or any rights or powers respecting the same, or as may fix the rates of Toll on any public works, or as may be in any wise inconsistent with or repugnant to the provisions of this Act.

U. C.
7 Will. 4 cap.
64.

Chatham
Bridge.

U. C.
7 Will. 4. cap.
83.

U. C.
3 Vict. cap. 51.
Dunnville
Bridge.

U. C.
4 Will. 4. cap.
43.

Paris Bridge.

U. C.
4 Will. 4. cap.
44.

Brantford
Bridge.

U. C.
3 Will. 4. cap.
30.

Toronto
Bridge.

U. C.
3 Will. 4. cap.
34.

Tolls.
8 Vict. cap. 3.

Provisions of
the said Acts.
excepted.

All other pro-
visions and
amendments
inconsistent
with this Act
repealed.

Accounting
clause.

XL. And be it enacted, That the due application of all monies expended by or under the superintendence of the said Commissioners shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of the Treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

XLI. And be it enacted, That the word "Governor," wherever it occurs in this Act, shall be construed to include the Lieutenant Governor or person administering the Government of this Province; and the words "Governor in Council" shall mean the Governor, Lieutenant Governor, or person administering the government

Interpretation
clause.

always, that no such party or witness shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution.

Duration of
this Act.

II. And be it enacted, That this Act shall remain in force until the first day of May, one thousand eight hundred and forty-eight and no longer.

MONTREAL:—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. XXXIX.

An Act to continue for a limited time certain Acts and Ordinances therein mentioned.

[9th June, 1846.]

WHEREAS it is expedient to continue for a limited time, the several Acts and Ordinances hereinafter mentioned : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act of the Legislature of Lower Canada, passed in the second year of the Reign of His Majesty King George the Fourth, and intituled, *An Act for the better regulating the Common of the Seigneurie of La Prairie de la Magdeleine*, and the powers and authorities conferred by and in virtue of the same, shall remain in force until the first day of May, which will be in the year of Our Lord, one thousand eight hundred and forty-seven, and thence until the end of the then next Session of the Provincial Parliament, and no longer.

Preamble.

Act of L. C.
2 Geo. 4. c. 8,
continued.

II. And be it enacted, That the Act of the said Legislature, passed in the year last aforesaid, and intituled, *An Act to enable the inhabitants of the Seigneurie of La Baie St. Antoine, commonly called La Baie du Febvre, to provide for the better regulation of the Common in the said Seigneurie*, as extended by the Act of the said Legislature, passed in the fourth year of the same Reign, and intituled, *An Act to authorize the Chairman and Trustees of the Common of the Seigneurie of the Baie St. Antoine, commonly called La Baie du Febvre, to terminate certain disputes relating to the limits of the said Common, and for other purposes appertaining to the same*; and the powers and authorities conferred by and in virtue of the said Acts or either of them, shall remain in force until the first day of May, which will be in the year of Our Lord, one thousand eight hundred and forty-seven, and thence until the end of the then next Session of the Provincial Parliament, and no longer.

Act of L. C.
2 Geo. 4. c. 10,
as extended by
4 Geo. 4. c. 26,
continued.

III. And be it enacted, That the Act of the said Legislature, passed in the third year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to further suspend certain parts of an Act or Ordinance therein mentioned, and to*

Act of L. C.
3 Will 4. c. 14,
continued.

to consolidate and further continue for a time, the provisions of two other Acts therein mentioned, for more effectually ascertaining the damages on protested Bills of Exchange, and for terminating disputes relating thereto, and for other purposes, shall remain in force (except in so far as it may be affected by any subsequent Act whether passed during the present or any other Session (until the first day of May, which will be in the year of Our Lord, one thousand eight hundred and forty-seven, and thence until the end of the then next Session of the Provincial Parliament, and no longer.

Ordinance of
L. C. 2. Vict.
(3) c. 7, con-
tinued.

IV. And be it enacted, That the Ordinance of the said Legislature, passed in the third Session held in the second year of Her Majesty's Reign, and intituled, *An Ordinance to amend the Act passed in the thirty-sixth year of the Reign of King George the Third, Chapter Nine, commonly called the Road Act*, shall remain in force (except in so far as it may be affected by any subsequent Act or Ordinance whether passed during the present or any other Session,) until the first day of May, which will be in the year of Our Lord, one thousand eight hundred and forty-seven, and thence until the end of the then next Session of the Provincial Parliament, and no longer.

Ordinance of
L. C. 2. Vict.
(3) c. 19, con-
tinued.

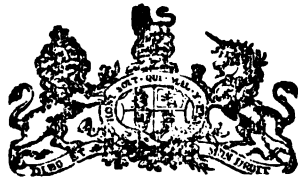
V. And be it enacted, That the Ordinance of the said Legislature, passed in the Session last mentioned, and intituled, *An Ordinance to suspend in part certain Acts therein mentioned, and to establish and incorporate a Trinity House in the City of Montreal*; shall remain in force as amended or altered in its effect by any subsequent Act or Ordinance, until the said first day of May, which will be in the year of Our Lord, one thousand eight hundred and forty-seven, and thence until the end of the then next Session of the Provincial Parliament, and no longer.

Ordinance of
L. C. 2. Vict.
(3) c. 29, as
extended by 4
Vict c 23,
continued.

VI. And be it enacted, That the Ordinance of the said Legislature, passed in the Session last mentioned, and intituled, *An Ordinance concerning the erection of Parishes, and the building of Churches, Parsonage Houses and Church Yards*,—shall remain in force as amended and extended by the Ordinance of the said Legislature, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to extend the provisions of a certain Ordinance therein mentioned, concerning the erection of Parishes for civil purposes, to Parishes canonically erected before the passing of the said Ordinance*,—until the first day of May, which will be in the year of Our Lord, one thousand eight hundred and forty-seven, and thence until the end of the then next Session of the Provincial Parliament, and no longer.

Ordinance of
L. C. 2. Vict.
(3) c. 66, con-
tinued.

VII. And be it enacted, That the Ordinance of the said Legislature, passed in the Session last mentioned, and intituled, *An Ordinance to provide for the inspection of Fish and Oil*, shall remain in force until the first day of May, which will be in the year of Our Lord, one thousand eight hundred and forty-seven, and thence until the end of the then next Session of the Provincial Parliament, and no longer.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. XL.

An Act to amend the laws relative to District Councils in Upper Canada.

[9th June, 1846.]

WHEREAS it is expedient to amend the Act hereinafter mentioned, establishing Municipal Authorities in and for the several Districts of Upper Canada : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding anything to the contrary in the seventh section or in any other part of the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to provide for the better internal Government of that part of this Province, which formerly constituted the Province of Upper Canada, by the establishment of Local or Municipal Authorities therein*, the Township meetings for the election of Councillors to represent such Townships respectively, in the District Council, shall open and commence at ten of the clock in the forenoon of the day appointed for such meetings, and the Poll (if a Poll be demanded) shall finally close at four of the clock in the afternoon of the same day.

Preamble.

Act 4 & 5.
Vict. c. 10.
amended as
to the time
during which
the Polls for
the election of
District Coun-
cillors shall
remain open.

II. And be it enacted, That for and notwithstanding as aforesaid, and in addition to the purposes for which the District Councils are by the thirty-ninth section of the said Act empowered to make By-laws, each District Council shall have power by a By-law or By-laws to be passed from time to time, to fix the site of a Town Hall and the place for holding the Township meetings in each or any Township in the District ; and all Township meetings authorized by law shall thereafter be held at the places so appointed, and not elsewhere.

District Council may fix the place of Township Meetings in each Township.

III. And be it enacted, That for and notwithstanding anything in the twelfth or in the fiftieth section or in any other part of the said Act, it shall be lawful for any District Council, in its discretion, by any By-law, to be passed for that purpose, to allow to each Member of such Council a sum not exceeding six shillings and three pence for each day he shall actually sit in Council, to be paid out of the

Councillors may under a By-law to be passed for that purpose, receive not more than 6s. 3d. a

day for each
day's actual
attendance.

Duration of
such By-law
limited.

the District Funds in such manner and on such conditions as shall be directed in such By-law ; and such By-law may or may not, in the discretion of the Council, be made to apply to the meeting at which it shall be made, but shall not apply to more than four half-yearly meetings after that at which it shall be made, and to such duly authorized extraordinary meetings as shall be held before the last of the half-yearly meetings to which the By-laws shall be made applicable, and which shall be therein clearly stated.

No Warden to
be appointed
by the Govern-
or after a cer-
tain time.

IV. And be it enacted, That for and notwithstanding anything in the fourth section or in any other part of the said Act, the Warden appointed or to be appointed by the Governor for each District, shall go out of office from the time when a Warden shall be appointed for such District under the provisions of this Act, and thereafter it shall not be lawful for the Governor of this Province to appoint any person to be Warden of such District.

Each District
Council to ap-
point yearly
one of its
Members to
be Warden of
the District.

V. And be it enacted, That at the first meeting of each District Council in any year, the Members of such Council shall and may, by a majority of the votes of the whole number of the Councillors present, elect some one of themselves to be the Warden of the District until his successor shall be elected in like manner ; and at such election the Warden for the time being shall preside, but shall not vote unless the votes be equally divided, in which case he shall give a casting vote, and may give such vote in his own favour if he be one of the parties having an equal number of votes : And the Warden so elected shall remain Warden and may preside at the election of his successor although he may have gone out of office as a Councillor before such election, but the Warden may always be re-elected if he be a Councillor at the time of the election : Provided always, that the Warden appointed for any District by the Governor, shall, if otherwise qualified, be eligible as a Councillor at or after the annual election of Councillors, in the year one thousand eight hundred and forty-seven.

Period of
service.

Warden may
be re-elected.

Proviso.
Present War-
dens to be
eligible.

Warden's
powers to be
similar to those
of Wardens
appointed by
the Governor.
Provision for
cases of va-
cancy.

VI. And be it enacted, That the Warden so elected shall while in office have all the powers and perform all the duties assigned by the Act aforesaid to the Warden appointed by the Governor, and the provisions of the said Act shall apply to the Warden so elected and to all matters relating to his office, in so far as may be consistent with this Act : And if at any time a temporary Chairman shall be appointed under the provisions of the twenty-first section of the said Act, during the absence of the Warden, or in case of a vacancy in that office, such temporary Chairman shall, during such absence or vacancy, have all the powers and perform all the duties of the Warden : And if such vacancy or absence shall occur during the interval between two Meetings, then the District Clerk shall act as Warden, until a Warden or a Temporary Chairman shall be elected.

District Treas-
urers to be
appointed by
the District
Councils once
in every three
years.

Their powers
and duties.

VII. And be it enacted, That at the first meeting of District or Municipal Councils after the passing of this Act, a District Treasurer shall be selected by the majority of the votes of any District or Municipal Council, any thing in the twenty-ninth section of the before recited Act to the contrary notwithstanding, and shall be subject to re-election at the expiration of every three years ; and such Treasurer so selected shall have all rights and powers which by any enactments now in force

force might appertain to any District Treasurer appointed before the passing hereof, in so far as the same may not be inconsistent with the provisions of this Act; And at the expiration of three years as aforesaid, the Council, if they see fit for the public interests, may select any other person to discharge the duty of Treasurer other than the one first selected: And it is hereby provided, that on any vacancy in the office of District Treasurer by death or otherwise during the recess of the Council, the Warden may and shall summon an extra meeting of the Council, for the purpose of selecting a Treasurer as aforesaid.

Cases of Vacancy provided for.

VIII. And be it enacted, That any Treasurer selected by the provisions of this Act shall, before he enters on the duty of the said office, give security for the safe keeping and the lawful application of all monies which may come into his hands by virtue of any enactment of the Legislature of the late Province of Upper Canada, or of the Legislature of the Province of Canada, or of any By-laws of the Municipal or District Council: And such security shall be such Treasurer in the sum of Two Thousand Pounds, and two sufficient sureties to be approved of by the District Council, in the sum of One Thousand Pounds each.

Treasurers to give security and to what amount.

IX. And be it enacted, That for and notwithstanding any thing in the twenty-eighth section or in any other part of the said Act, the District Clerk appointed or to be appointed by the Governor in each District, shall go out of office from the time his successor shall be appointed under this Act, and thereafter no District Clerk shall be appointed by the Governor in such District.

Present District Clerks to go out of office after a certain time.

X. And be it enacted, That at their first meeting in the year one thousand eight hundred and forty-seven, each District Council shall appoint a proper person to be the District Clerk, and may from time to time remove him, and appoint another in his stead, or may replace him; and the District Clerk so appointed shall have all the powers and perform all the duties assigned to the District Clerk by the Act aforesaid, and shall be subject to all the provisions thereof in so far as may be consistent with this Act: Provided always, that the Clerk of the Peace for the District shall always be eligible as District Clerk; and that in case of any vacancy occurring in the office of District Clerk during the interval between two meetings of the Council, the Clerk of the Peace for the District shall be *ex officio* the District Clerk until another shall be appointed as aforesaid.

District Clerk to be appointed by the Council of each District.

Proviso: Clerk of the Peace to be eligible, and to act in certain cases.

XI. And be it enacted, That for and notwithstanding any thing in the twenty-second section or in any other part of the said Act, there shall only be two ordinary meetings of each District Council in each year, which shall be held in the months of February and October, in each year; and the said half-yearly meetings shall commence on the first Tuesday in each of the months of February and October, respectively, and shall not be held for a longer period than nine successive days, (Sundays excepted;) and all the provisions of the said Act as to the quarterly meetings therein mentioned shall apply to the half-yearly meetings appointed by this Act or by any By-law made under the authority thereof, in so far as may be consistent with this Act; and any thing which, by the said Act or by the By-laws of any District Council, shall have been appointed to be done at the quarterly meeting which without this Act would have been held in the month of

Only two Ordinary meetings to be held in each year.

Provisions applicable to such meetings, &c.

August

August or of November, shall and may be done at the half-yearly meeting to be held in the month of October of the same year.

By a By-law approved by the Governor in Council, the periods may be altered in any District.

XII. Provided always, and be it enacted, That any District Council may, by By-laws to be from time to time made in that behalf, and expressly approved by the Governor in Council, alter the period hereinbefore fixed for the ordinary half-yearly meetings of such District Council and the duration of such meetings, so that no more than two such meetings be appointed to be held in any year, and that no such meeting be held for a longer period than nine successive days, Sundays and Good Friday excepted.

Part of Act of U. C. 1 Vict. c. 21. repealed, and District Councils to regulate the commutation for Statute labour under certain limitations.

And to regulate the mode in which Statute labour shall be performed.

XIII. And be it enacted, That the forty-second section of the Act of the Legislature of Upper Canada, passed in the first year of Her Majesty's Reign, and intituled, *An Act to alter and amend sundry Acts, regulating the appointment and duties of Township Officers*, and so much of the twenty-third section of the said Act as enables any party to compound for Statute labour, or fixes the rate of composition, or the officer to whom the composition money shall be paid, or the manner in which it shall be employed, shall be repealed; and that for and notwithstanding anything in the Act first above cited and hereby amended, it shall be lawful for the district Council by any By-law, to empower the landholders in the District to compound for the Statute labour by them respectively performable, for any term not exceeding five years, at any rate not exceeding two shillings and six pence for each day's labour, and at any time before the labour compounded for ought to be performed, and by such By-law to direct to what officer in each Township such composition money shall be paid, and how such money shall be applied and accounted for, and to regulate by By-law the manner and the divisions in which the Statute labour shall be performed, or to empower the respective Township Councillors to direct the laying out and performance thereof.

District Council may order trees to be cut down for a certain distance on each side of a public highway.

Proviso as to trees planted for ornament.

XIV. And be it enacted, That in addition to the purposes for which the District Councils are empowered by the Act first above cited to make By-laws, it shall be lawful for any District Council to make By-laws for providing that on each side of any highway which shall pass through a wood, the timber shall be cut down for a space not exceeding twenty-five feet on each side of such highway, by the proprietor of the land on which such timber shall be, or in his default by the Overseer of Highways in whose division such land shall lie; such timber to be removed by the proprietor within a time to be appointed by the By-law, or in his default by such Overseer of Roads, in which last mentioned case it may be used by the Overseer for any purpose connected with the improvement of the highways and bridges in his division, or sold by him to defray the expenses incurred in carrying the By-law into effect: Provided always, that no such By-law shall authorize or compel the cutting down of any orchard or shrubbery, or of any trees planted expressly for ornament or shelter.

District Council need not employ the District Surveyor as to works under £50.

XV. And be it enacted, That for and notwithstanding anything in the thirty-seventh or in the forty-sixth section, or in any other part of the Act first above cited, it shall be discretionary with each District Council to employ the District Surveyor to prepare, examine or report upon the estimate for any work upon which the sum to be expended shall not exceed fifty pounds, or for any other purpose relative to such work.

XVI.

XVI. And be it enacted, That in addition to the purposes for which the District Councils are empowered by the forty-eighth section of the Act first above cited to make By-laws, it shall be lawful for any District Council, on the application of a majority of the persons qualified to vote at the election of Township Officers in any Township in the District, to authorize and direct by By-law, the raising by assessment on the taxable property in such Township, of such sum as may be required for the purpose of affording relief to indigent, sick or infirm persons in the Township, in such manner and under such regulations as may be provided in any By-law to be made in that behalf.

District Council may authorize the raising of money in any Township for the relief of the indigent, &c.

XVII. And be it enacted, That all the provisions of the forty-seventh section of the Act first above cited, and all other provisions of the said Act, shall apply to the By-laws to be made and other proceedings to be had under this Act, in so far as may be consistent with this Act.

Provisions of the 4 & 5 V. c. 10, as to By-laws, extended to those made under this Act.

XVIII. And be it enacted, That for and notwithstanding any thing in the eleventh section of the said recited Act, it shall and may be lawful for the inhabitants of any Township or reputed Township to elect any person or persons to be a District Councillor or Councillors, although such person or persons may not be resident within the Township or reputed Township for which he or they may be elected.

District Councillors need not be resident in the Township they represent.

XIX. And be it enacted, That for and notwithstanding any thing in the thirty-seventh section of the said first recited Act, the District Surveyor, appointed by the Warden of any District, shall go out of office from the time his successor shall be appointed under this Act, and thereafter no District Surveyor shall be appointed by the Warden of any District: Provided always, that any present District Surveyor may be appointed to perform the duties of that office by the District Council.

Present District Surveyors to go out of office at a certain time: But may be re-appointed by the District Council.

XX. And be it enacted, That at their first meeting, in the year one thousand eight hundred and forty-seven, the District Council shall appoint a proper person to be District Surveyor, and may, from time to time remove him and appoint another in his stead, or may replace him; and the District Surveyor so appointed shall have all the powers and perform all the duties assigned to the said District Surveyor by the Act aforesaid, and shall be subject to all the provisions thereof, in so far as may be consistent with this Act.

District Councils thereafter to appoint District Surveyors: Their powers and duties.

XXI. And be it enacted, That this Act shall come into effect upon, from and after the third Monday in August next, and shall apply solely to that part of this Province which formerly constituted the Province of Upper Canada.

Act to apply only to U. C.

XXII. And be it enacted, That the word "Governor," wherever it occurs in this Act, shall be construed as including the Lieutenant-Governor, or Person administering the Government of this Province; and that the words "Governor in Council" shall be construed as meaning the Governor acting by and with the advice of the Executive Council of this Province.

Interpretation clause.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. XLI.

An Act to provide for the appointment of Magistrates for the more remote parts of this Province.

[9th June, 1846.]

WHEREAS the condition and circumstances of this Province require that provision should be made for the appointment of Magistrates, to act and have jurisdiction in the more remote parts of this Province, and particularly in the Territories bordering upon and adjacent to Lakes Superior and Huron, and it is expedient to exempt such Magistrates from the necessity of possessing the qualification now required by law to be possessed by Magistrates residing within the regularly established Districts of this Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act it shall and may be lawful for the Governor or Administrator of the Government of this Province, for the time being, by and with the advice and consent of the Executive Council thereof, from time to time, and at all times hereafter, to name and appoint such and so many fit and proper persons as may be deemed expedient to be and act as Justices of the Peace within, and whose jurisdiction as such Justices of the Peace shall extend over, such part or parts of the said Province, not being within the constituted limits of any District of this Province, as the said Governor may by Proclamation define and declare; and it shall not be necessary for such Justices of the Peace to be stated residents, or possess any property qualification within the part or parts of the said Province for which they may be appointed, and over which their jurisdiction may extend, nor elsewhere, any thing in a certain Act of the Parliament of this Province, passed in the sixth year of Her Majesty's Reign, intituled, *An Act for the qualification of Justices of the Peace*, or in any other Act or Law in force in this Province, or any part thereof, to the contrary notwithstanding.

Preamble.

Governor may appoint Justices of the Peace for remote parts of the Province, not being within any constituted District.

Such Justices need not be qualified as to property, or reside within the limits of their jurisdiction.

II. And be it enacted, That the Justices of the Peace to be appointed under this Act, shall and may have, hold and exercise all and every the powers and authority, and be subject in all respects (excepting as to any matters or things incident to the residence

But shall be subject to all the other requirements of law.

residence or property qualification, required in cases not within the meaning of this Act) to the requirements of the Laws in force in this Province, regarding the office of Justices of the Peace, in so far as the same may be applicable to the persons to be appointed under this Act, and not inconsistent with the removal of the restrictions hereby intended.

Commitments
by such Justices
to be to
the nearest
Common Gaol.

III. And be it enacted, That whenever, in the exercise of the powers and authority aforesaid, it shall be lawful for any Justice of the Peace, to be appointed under this Act, to cause any person or persons to be committed to prison, such Justice may cause such person or persons to be committed to that Common Gaol in this Province to which such Justice shall be nearest at the time when he shall have occasion to order such commitment, and it shall be lawful for the Keeper of any such Common Gaol to receive such person or persons, and him, her or them safely to keep and detain in such Common Gaol under his custody, until discharged in due course of law, or bailed, in cases in which bail may by law be taken.

Appeals (when
allowed by
law) to lie
from such
Justices of the
Court of Q. S.
nearest to the
place where
the order, &c.,
appealed from
shall be made.

Proviso.

IV. And be it enacted, That in all cases in which, under the requirements aforesaid, an Appeal shall or may lie to a Court of General Quarter Sessions of the Peace, such Appeal shall lie to and shall and may be brought before and heard and determined by that Court of General Quarter Sessions of the Peace, which shall hold its sittings nearest to the place at which the decision, sentence, order or judgment, to be appealed from, shall have been made, rendered, given or pronounced, and shall and may be claimed and allowed, used, exercised and enjoyed, at any time within six calendar months from and after the day of the date thereof; any law, usage or custom to the contrary thereof in any wise notwithstanding: Provided always, that nothing herein contained shall extend or be construed to extend to appeals from sentences, decisions, orders or judgments, made, rendered, given or pronounced by any Justice of the Peace in this Province, appointed or to be appointed otherwise than under the provisions of this Act.

Public Act.

V. And be it enacted, That this Act shall be held and taken to be a Public Act, and shall be judicially taken notice of without being specially pleaded.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



A N N O N O N O

VICTORIÆ REGINÆ.

C A P. X L I I.

An Act to explain a certain provision of the Ordnance Vesting Act, and to remove certain difficulties which have occurred in carrying the said provision into effect.

WHEREAS the twenty-ninth section of the Act passed in the seventh year of Her Majesty's Reign, intituled, *An Act for vesting in the Principal Officers of Her Majesty's Ordnance the Estates and Property therein described, for granting certain powers to the said Officers, and for other purposes therein mentioned*, contains a Proviso in the words following: "Provided always, and be it enacted, that all lands taken from private owners at Bytown, under the authority of the Rideau Canal Act, for the uses of the Canal, which have not been used for that purpose, be restored to the party or parties from whom the same were taken," and doubts have arisen as to the true intent and meaning of the same, and as to the land to which it is intended to apply; and proceedings at law and in equity, which have arisen out of such doubts, have been commenced and are still pending; And whereas, during the now last Session of the Legislature, a Bill was passed by the Legislative Council and Legislative Assembly of this Province, for the purpose of explaining and amending the said Act as far as regards the effect of the said Proviso, and of setting such doubts at rest, but the said Bill being reserved for the signification of Her Majesty's pleasure thereon, has not received the Royal Assent; And whereas as well the Principal Officers of Her Majesty's Ordnance as the private parties interested, are desirous that the doubts aforesaid should be removed, and all matters of difference between them should be fairly and amicably settled: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Proviso recited in the Preamble to this Act shall be construed to apply to all the land at Bytown set out and ascertained and taken from Nicholas Sparks, of the said Town, Esquire, under the provisions of the Act of the Legislature of Upper Canada, passed in the eighth year of the Reign of King George the Fourth, intituled, *An Act to confer upon His Majesty certain powers and authorities, necessary to the making, maintaining and using the Canal intended to be completed*
under

Preamble.

Proviso to sec
29 of Act 7
Vict. c. 11,
cited.

To what lands
the said Prov
so shall be
construed to
apply.

*under His Majesty's direction for connecting the waters of Lake Ontario with the River Ottawa, and for other purposes therein mentioned, except so much thereof as is actually occupied as the site of the Rideau Canal, as originally excavated at the Sappers' Bridge and of the Basin and By-wash, as they stood at the passing of the Ordnance Vesting Act, and excepting also a tract of two hundred feet in breadth on each side of the said Canal, the portion of the said land so excepted having been freely granted by the said Nicholas Sparks to the late Colonel By, of the Royal Engineers, for the purposes of the said Canal, and excepting also a tract of sixty feet round the said Basin and By-wash, (wherever the present Ordnance boundary stones stand beyond that distance from the said Basin or By-wash, but where they stand within that distance then they shall bound the tract so excepted,) which is freely granted by the said Nicholas Sparks to the said Principal Officers, for the purposes of the said Canal, provided no buildings be erected thereon, and that notwithstanding any thing in the Act last cited, or in the Act of the said Legislature, passed in the second year of Her Majesty's Reign, and intituled, *An Act to limit the period for owners of lands making claims for damages already occasioned by the construction of the Rideau Canal, and for other purposes therein mentioned*, or any judgment, decree, verdict or decision of or in any Court of Law or Equity, all the land to which the said Proviso is applicable as aforesaid, shall, if retained by the Principal Officers of Her Majesty's Ordnance, under the provisions of this Act, be paid for by them in the manner provided by this Act, and any parts thereof which shall not be so retained and paid for, shall be and the same are hereby declared to be absolutely re-vested in the said Nicholas Sparks, or the parties respectively to whom the same may have been conveyed by him before the tenth day of May, one thousand eight hundred and forty-six, to his and their own proper use for ever, and such conveyances shall not then be invalidated by any want of possession in the said Nicholas Sparks, or adverse possession by the said Principal Officers at the time they were respectively made.*

Principal Officers to obtain within one month a certificate of the part necessary to be retained : the remainder to be restored.

II. And be it enacted, That the said Principal Officers shall, within one month after the passing of this Act, obtain a certificate from the Officer Commanding Her Majesty's Forces in this Province, setting forth what part or parts of the land to which the said Proviso is applicable, it is necessary to retain for the service of the Ordnance Department for Military or Canal purposes ; and such part or parts shall be retained by and remain vested in the said Principal Officers in trust for Her Majesty, and the remainder (if any) shall be immediately thereafter absolutely re-vested in the said Nicholas Sparks, or the party or parties claiming under him, to his and their own proper use for ever ; any law to the contrary notwithstanding.

Suits, &c., concerning the said lands to cease and determine.

Proviso : warrant of possession may be obtained for the lands required if not

III. And be it enacted, That all Suits, Actions and Proceedings, either at Law or in Equity, which have been commenced against any person or persons by the said Principal Officers or by Her Majesty's Attorney General, for any cause of action arising out of the occupation of or erection of any buildings upon any part of the land to which the said Proviso is applicable as aforesaid, shall, from the day of the passing of this Act, utterly cease and determine and become of no effect whatever : Provided always, that if any party shall, at the time of issuing the certificate aforesaid, be in possession or occupation of any part of the land therein mentioned, the Sheriff of the District of Dalhousie may be required to put the said Principal Officers in possession thereof in the manner and under the provisions in like

like cases provided by the Ordnance Vesting Act ; saving to all parties their claims to compensation for such land under the provisions of this Act.

in possession
of the Ord-
nance.

IV. And be it enacted, That James Sutton Elliot, Esquire, or in case of his death, inability to act or absence from the Province for more than one month, such other person as the said Principal Officers shall appoint ; and Stewart Derbshire, Esquire, or in case of his death, inability to act or absence from the Province for more than one month, such other person as the said Nicholas Sparks, his heirs, executors, administrators or assigns shall appoint, shall be Arbitrators for ascertaining and establishing the sum and sums to be paid as compensation for the said Land and for the part or parts thereof, respectively, so to be retained as aforesaid, to the parties entitled to the same ; and that John Alexander Macdonald, Esquire, or in case of his death or refusal or inability to act, such person as the other two Arbitrators shall agree upon, shall be the third Arbitrator for the purposes aforesaid, and shall have like powers with the others, respectively.

Arbitrators
appointed to
determine the
compensation
to be paid for
the land re-
tained.

Third Arbi-
trator.

V. And be it enacted, That after having obtained such Certificate, the said Principal Officers shall, within one month after the same shall have been granted, serve a copy thereof on the said Stewart Derbshire (or such person as may then be in his stead as Arbitrator) and on the third Arbitrator, which service shall be deemed notice of such Certificate to all the parties interested, and the said Arbitrators shall then meet after giving due notice of the time of their meeting to the parties interested, who may be known to them, and being first respectively sworn before some Justice of the Peace to perform their duty under this Act without partiality, fear, favor or affection, shall proceed to ascertain the compensation to be paid by the Principal Officers for the whole of the land mentioned in the said Certificate as being retained as aforesaid, and having made their award in that behalf, shall then proceed to ascertain what part of such compensation shall be paid for each separate parcel of the land so retained or to the compensation for which it shall appear to them that a separate party may be entitled, and shall make their awards accordingly ; and the said compensation shall, in every case, be such sum as the said Arbitrators shall deem to be the true money value of the property for which it shall be awarded ; and the said Arbitrators shall have full power to examine on oath (which oath any one of them is hereby empowered to administer) any person who shall voluntarily appear before them to give evidence as to the value of the said land or any part of it ; and any wilfully false statement made before them shall be perjury ; and the award of or any act or thing done or agreed to by any two of the said Arbitrators at any meeting at which the other Arbitrator shall have been present, or of which he shall have had sufficient notice to enable him to attend the same, shall be deemed to be the award or act of the Arbitrators aforesaid, and shall be as valid to all intents and purposes as if it had been made or done by all three of them.

Copy of the
Certificate to
be served on
the Arbitra-
tors :

Who, being
sworn, shall
proceed to de-
termine the
compensation.
First, for the
whole land,
and then for
each separate
portion.

May take evi-
dence on oath.

Award of any
two sufficient.

VI. And be it enacted, That every award of the said Arbitrators, or any two of them, made as aforesaid, shall be final and conclusive, and no such award shall be set aside for any defect or want of form, provided the parcel of land for which compensation is awarded and the amount of such compensation, be thereby ascertained.

Award to be
final, and not
to be set aside
for want of
form.

VII. And be it enacted, That the party to whom the sum awarded as compensation for any parcel of the said land shall be paid by the Principal Officers, shall be

To what par-
ties the com-
pensation may
be paid.

Sums awarded to be paid in three months.

In case of non-payment of any sum awarded, the land for which it is awarded to be restored.

Proviso.
Where there may be more than one claimant.

Proviso.
This Act to be notice to claimants.

Proviso: Failure to obtain the certificate, or neglect to comply with this Act on the part of the Ordnance, shall re-vest the land in N. Sparks, &c.

Interpretation clause.

be that party who could, under the provisions of the Ordnance Vesting Act aforesaid, have conveyed such parcel to the said Principal Officers, if the said land had never been set out, ascertained and taken under the provisions of the Rideau Canal Act aforesaid, and the receipt of such party shall forever discharge the said Principal Officers from all claims whatsoever to or upon such land or the compensation for the same; any law, usage or custom to the contrary notwithstanding; and the sums so awarded shall respectively be paid to the parties entitled to the same, within three months after the making of the said award, except in the case herein-after mentioned, and if any sum so awarded shall not be so paid within three months as aforesaid, then the land for which the same shall have been awarded shall be, forthwith after the expiration of the said period, restored to the said Nicholas Sparks, or the parties claiming under him as aforesaid, and shall be and is hereby vested in him or them by the mere fact of such non-payment within the said period, without any other proceeding being requisite for that purpose: Provided always, that if such compensation be claimed by two or more parties, each of whom shall have notified his claim to the said Principal Officers before such compensation shall have been paid to any other party, they shall then, within the time aforesaid, pay the said compensation into Court, in the manner provided in like cases by the Ordnance Vesting Act, and the receipt of the proper Officer shall have the same effect as the receipt of the party entitled to the compensation: Provided also, that this Act shall be deemed sufficient notice to require all parties entitled to the compensation for any parcel of the said land to notify their claims to the said Principal Officers, and any such party who shall not have notified his claim to such compensation to the said Principal Officers within two months after the passing of this Act, or before they shall have paid the same to some other party having a colorable title thereto, shall have no claim whatever for such compensation against the said Principal Officers, saving, nevertheless, his recourse against the party who may have unjustly received such compensation. Provided always, and be it enacted, that if the said Principal Officers shall fail to obtain the said certificate of the Officer commanding Her Majesty's Forces in this Province within the time hereinbefore limited for that purpose, or shall negligently fail to comply with any of the other requirements of this Act, or if, through any non-attendance or other wilful neglect of the said James Sutton Elliot, or other person appointed to act in his stead by the said Principal Officers, the other Arbitrators shall be prevented from proceeding, and such wilful default or neglect shall continue for three months, then at the expiration of the said period the land to which the said Proviso is hereby made applicable shall be absolutely re-vested in the said Nicholas Sparks, or those claiming under him as aforesaid, by the mere fact of the expiration of such period, and without any other proceeding being requisite for that purpose; any law to the contrary notwithstanding.

VIII. And be it enacted, That the words "The Ordnance Vesting Act" wherever they occur in this Act, shall be construed as meaning the Act first cited in the Preamble to this Act, and the words "The Rideau Canal Act," shall be construed as meaning the Act first cited in the first section of this Act; and all other words and expressions herein shall be construed as having the same meaning as they have in the said Ordnance Vesting Act, which is hereby explained and amended as aforesaid, and with reference to that Act.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. XLIII.

An Act to amend an Act therein mentioned, and to make better provision for the Election of Councillors and Assessors of and for the City of Montreal.

[9th June, 1846.]

WHEREAS it is necessary to secure the peaceable Election and Return of Councillors and Assessors of and for the City of Montreal, and to guard and protect the inhabitants in the exercise of their Municipal franchise; And whereas it is necessary for that purpose to amend an Act passed in the eighth year of Her Majesty's Reign, intituled, *An Act to amend and consolidate the provisions of the Ordinance to incorporate the City and Town of Montreal, and of a certain Ordinance amending that Ordinance, and to vest certain other powers in the Corporation created by the said first mentioned Ordinance*, in the manner hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, the election of Councillors and Assessors, of and for all and each of the Wards of the said City of Montreal, shall be held at the place and places and by and before the persons hereinafter mentioned, and the votes at such elections shall be given and the proceedings thereat conducted in the manner hereinafter prescribed, and that so much of the Act first above cited as makes any other provision than is made by this Act, in any matter hereby provided for, shall be and is hereby repealed.

Preamble.

Act 8 Vict. c. 59, cited.

Election of Councillors and Assessors to be as hereby provided, notwithstanding the said Act.

II. And be it enacted, That at each election of a Councillor or Councillors, Assessor or Assessors, held after the passing of this Act, for the St. Mary's Ward, the St. James Ward, the St. Louis Ward, the St. Lawrence Ward, the St. Antoine Ward or the St. Anne's Ward, three polling places in each Ward shall be previously appointed by the Council of the said City, at which the poll shall be taken; and at any such election for the East Ward, the West Ward, or the Centre Ward, two polling places in each Ward shall be so appointed for the like purpose; and one of the said polling places shall be appointed to be the chief polling place.

Two polling places to be appointed in each of certain Wards, and three in each of certain others.

III.

Election Officers to be appointed.

III. And be it enacted, That the said Council shall appoint for each election in any Ward one fit and proper person to be Chief Election Officer, and one or two persons (as the case may require) to be Assistant Election Officer or Officers; and the Chief Election Officer shall make the return and shall preside at the chief polling place, and each of the Assistants shall preside at one of the other places; but no Councillor shall be appointed to either office.

Councillors not to be appointed.

Powers of the Election Officers.

IV. And be it enacted, That except as to declaring the result of the election and making the return or giving any casting vote, each of the said Election Officers shall have the same powers and duties as are conferred by the said Act on the Councillor presiding at any election; and the Chief Election Officer shall have the same powers and duties as are thereby conferred on such Councillors, as to declaring the result of the election, making the return, and giving a casting vote if need shall be.

Public notice of polling places, &c., to be given.

V. And be it enacted, That public notice shall be given by the City Clerk, in both languages, and in at least one newspaper published in the English language, and in one published in the French language in the said City, of the time when and the places where the polls at each election will be held; such notice being given at least three days before the election to which it shall refer; but no want of or defect in such notice shall vitiate any election: Provided always, that nothing herein contained shall be construed to alter the time prescribed by the said Act for the annual elections, or the hours at which the polls shall open or close.

Provision as to annual elections, and hours of polling.

Provision for closing the election and declaring the result, &c.

VI. And be it enacted, That immediately after the closing of the poll, each Assistant Election Officer shall proceed to the chief polling place and shall deliver his poll list to the Chief Election Officer, who shall thereupon ascertain the total number of votes given for each Candidate at all the polling places, and shall declare such numbers, and shall also declare the Candidate having the greatest number of votes duly elected, and shall make his return thereof to the Mayor and Council of the said City.

Provisions of the amended Act extended to elections under this Act when not inconsistent with it.

VII. And be it enacted, That to the Officers taking such polls, their obligation to act and the penalty to be incurred for refusal or neglect, the appointment and duty of Poll Clerks, the conduct and duties of all persons voting at or attending such elections, and the manner of proceeding thereat, the provisions of the said Act hereby amended shall apply, as if such persons had been appointed under that Act and with reference to some election to be held under the same, or had been voting or attending thereat, or such proceedings had been had at such election, in so far as such provisions can be so applied consistently with the express provisions of this Act; and no provision of the said Act shall be held to be hereby repealed, except only such as may be inconsistent with this Act.

Voters' List to be made by the Assessors, and certified by them.

VIII. And whereas a provision for the registry of voters has been found equitable and convenient; Be it enacted, That before the first day of January in every year the Assessors of each Ward, or any two of them, shall make out from the last Assessment Roll an alphabetical list of the voters qualified to vote at the election of Councillors in that Ward, to be called the "Voters' List," to which they shall add the names of all such persons not on the said Assessment Roll as they know are

are then entitled to vote at such election, according to the provisions of the Act hereby amended, and the said Assessors shall sign such List, certifying that it is correct to the best of their knowledge and belief, (and shall also keep a true copy thereof,) which List they shall deliver to the City Clerk, to be by him submitted to the Board of Revisors.

IX. And be it enacted, That the said List shall be hung up in the City Hall for the examination of all concerned, at reasonable hours, from the first day of January to the first day of February, of which fact the City Clerk shall give immediate public notice either by printed placards or by advertisement in not less than one newspaper published in the English language, and one published in the French language, in the said City; and any person who shall claim to be added to the said "Voters' List," or any Elector who shall desire to have any name erased therefrom, shall prefer his request in writing, signed with his name, stating the Ward to which he belongs, and shall cause the same to be delivered to the City Clerk before the said first day of February.

X. And be it enacted, That at their last Quarterly meeting in every year after the passing of this Act, the City Council shall choose from among their own number four Members of the said Council, who, together with the Mayor for the time being, shall be and constitute a Board of Revisors, any three of whom shall be a quorum, to revise the Voters' List as furnished by the Assessors of the various Wards, and decide according to the best of their judgment upon the claims previously made as aforesaid for the insertion or omission of names in or from the said Lists; and the Mayor, or in his absence, such person as the other Members of the Board shall choose at the Meeting, shall preside at such Meeting of the Board, and such Board shall, on their first day of meeting, be duly sworn by one Justice of the Peace for the District of Montreal, well and impartially to perform their duties as such Revisors; and the said Board shall give public notice before their first day of sitting, of the order in which they will take up the Lists of the several Wards, and they shall meet on the first Monday in February, or on the day following, if that day be a Holiday, at ten o'clock in the forenoon, for the purpose of hearing persons concerned in making the said claims and deciding upon them, and shall adjourn from day to day until all the Voters' Lists are revised and settled; and the Mayor or person presiding at the said Board for the time being shall have power to examine persons upon oath respecting the said claims and all matters connected with the revision of the said Lists; and the said Board, after hearing the best evidence of which the cases will admit, shall and they are hereby required to decide upon and make the necessary additions or erasures to or from the said Voters' Lists, in relation to the applications before them; and the said Board shall also have power to correct any mistake or supply any accidental omission made by the Assessors in the said Lists; and the said Lists, so revised and settled, shall be signed by the presiding Officer of the said Board and sealed with the City Seal, and shall be the only correct "Voters' Lists:" Provided always, that the said Lists shall be finally completed before the twentieth day of February: And provided also, that no person's name shall be erased from any of the said Lists without his being informed of the claim to that effect and having an opportunity to be heard in reference thereto.

Lists to be publicly exposed for examination during one month.

Claims how to be made.

Board of Revisors to be appointed, and its duties in revising the Voters' Lists.

Who shall preside.

Board to give notice of their order of proceeding, &c., and shall meet, adjourn, &c., and may hear evidence on oath; and correct the Lists if necessary.

Proviso. Proviso. Persons to be informed of objections to them as Voters.

Publication of
the revised
Lists.

Persons named
in them and
producing cer-
tificates may
vote, taking
only the oath
of identity.

Voters to ob-
tain certi-
ficates and not
to vote with-
out producing
them.

Repeal of By-
laws inconsis-
tent with this
Act.

Public Act.

XI. And be it enacted, That the Voters' List for each Ward, when so settled and signed, shall be again hung up in the City Hall until the day of election, and then filed in the office of the City Clerk, and certified copies thereof under the City Seal shall be by him transmitted to the election Officers of the several Wards in the City not less than five days before any such election; and that every person whose name shall appear in such Ward List, and who shall produce a certificate as hereinafter mentioned, shall be entitled to vote at the election for such Ward, without any further enquiry as to his qualification, and without taking any oath other than that he is the person named in such List, and has not before voted at such election, which oath the Election Officer is hereby required and authorized to administer.

XII. And be it enacted, That on the application of any person whose name shall be on the Voters' List for any Ward, at any time on or before the day of the election for such Ward, the City Clerk shall deliver to such person a Certificate signed by him, that the name of such person is on the Voters' List for such Ward, and that he is entitled to vote at the election to be held for the same on the day named in the Certificate; and such Certificate shall be delivered by the Voter to the Election Officer, and kept by the latter; and no person shall be entitled to vote at the election without producing and delivering such Certificate, although his name be on the Voters' List for the Ward.

XIII. And be it enacted, That so much of any By-law of the Council of the said City as may be inconsistent with the provisions of the five next preceding sections, shall be and is hereby annulled and made void.

XIV. And be it enacted, That this Act shall be held and taken to be a Public Act, and as such shall be judicially taken notice of by all Judges, Justices, and other persons whomsoever, without being specially pleaded.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. XLIV.

An Act to amend the Act to detach the Island of Orleans from the County of Montmorency, for the purposes of Registration.

[9th June, 1846.]

WHEREAS by reason of a clerical error in the Act hereinafter mentioned, in consequence of which a certain Act is cited as having been passed in the fourth year of Her Majesty's Reign, when it was really passed in the seventh year of Her Reign, doubts may arise as to the validity of proceedings had under the said Act; to remove such doubts: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That every Act, proceeding and thing done, performed or had under the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to detach the Island of Orleans from the County of Montmorency, for the purposes of Registration of Titles, and to establish a Registry Office in the said Island*, shall be as valid and effectual as if the Act cited in the first section of the said Act as having been passed in the fourth year of Her Majesty's Reign, had been cited as having been passed, as it in fact was, in the seventh year of Her Majesty's Reign.

Preamble.

Any doubt as to the effect of a certain clerical error in the Act 8 Vict. c. 28, removed.

II. And be it enacted, That instead of four pence currency per hundred words, which by the third section of the said Act may be paid out of the Consolidated Revenue Fund of this Province to the Registrar of the County of Montmorency for the certified copies of certain Memorials and other Documents, which by the said section he is required to transmit to the Registry Office to be kept under the said Act, six pence currency per hundred words shall be allowed to the said Registrar of the County of Montmorency, and paid out of the Fund aforesaid.

The remuneration paid to the Registrar of Montmorency for certain services, increased.

6d.

III. And be it enacted, That for all the purposes of the said Act and of Registration, *Isle aux Renoux* and *Isle Madame* shall be detached from the County of Montmorency, and the Registry Office in and for the said Island of Orleans shall be the Registry Office for the said *Isle aux Renoux* and *Isle Madame*, as effectually as if they formed part of the said Island of Orleans and had been included with it in the provisions of the said Act.

Certain islets detached from the County of Montmorency, and attached to the Island of Orleans, for Registration purposes.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. XLV.

An Act to establish a separate Registry Office in the lower part of the County of Dorchester.

[9th June, 1846.]

WHEREAS from the great extent of the County of Dorchester, it is extremely inconvenient and onerous for the inhabitants of the lower part of the said County to have access to the Registry Office established and kept in the Upper part thereof, and it is therefore expedient to establish a separate Registry Office in that part of the said County first hereinabove mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for all the purposes of the Ordinance of the Governor and Special Council for the affairs of the late Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to prescribe and regulate the Registering of Titles to lands, tenements and hereditaments, real or immoveable Estates, and of the charges and incumbrances on the same, and for the alteration and improvement of the law, in relation to the alienation and hypothecation of real Estates, and the rights and interests acquired therein*, as amended by subsequent Acts of the Legislature of this Province, the Parishes of St. Anselme, St. Isidore, (within the Seigniory of Lauzon,) St. Henry, St. Jean Chrysostôme, St. Nicholas, and such parts thereof only as are included within the County of Dorchester, together with the Parish of St. Joseph of Pointe Levy, including that part of the same comprised within the limits of the County of Dorchester only, shall, from and after the first day of July next be respectively detached from the said County of Dorchester, and shall for the said purpose only be deemed to be a separate and distinct County.

Preamble.

Part of County of Dorchester to be deemed a separate and distinct County for purposes of Ordinance of Special Council, L.C. 4 Vict. c. 30.

.II. And be it enacted, That from and after the said day there shall be established in and for the said Parishes, or such parts thereof as aforesaid, at such place as the Governor or the person administering the Government shall appoint, a Registry Office for the purposes of the Ordinance and Acts aforesaid; and it shall be lawful for the Governor or person administering the Government of this Province, to appoint a fit and proper person to be Registrar of and for the said Parishes or such parts thereof as aforesaid, and from time to time to remove any such Registrar and to appoint another in his stead.

A Registry Office to be established for that part of the County, and a Registrar appointed.

III.

Certified copies of memorials, &c., relating to lands, &c., in the said part of the County to be transmitted by Registrar of County of Dorchester to the Registry Office to be kept under this Act.

III. And be it enacted, That so soon as may be after the said day, certified copies of all memorials, books, records, indexes, documents and papers relating to or in any manner affecting lands, tenements, hereditaments, real or immoveable estates in the said Parishes, or such parts thereof as aforesaid, or any charges or incumbrances on the same originally made, filed or entered in the Registry Office of the said County of Dorchester, or of which, under the provisions of the said Acts, certified copies shall have been or shall be transmitted to the Registrar of the said County, shall by such Registrar be transmitted to the Registry Office to be kept under this Act in the said Parishes, or such parts thereof as aforesaid, there to remain as part of the records and muniments of the said Office; and for such certified copies the Registrar furnishing the same shall receive from and out of the Consolidated Revenue Fund of this Province a sum equal to six pence currency per hundred words contained in such certified copies; and the documents from which such copies shall be made, shall remain in and form part of the records and muniments of the Registry Office of the County of Dorchester.

Registrar to give security.

IV. And be it enacted, That the Registrar to be appointed for the said Parishes, or such parts thereof as aforesaid, shall be required to give security for the due performance of the duties of his Office in a sum not exceeding two thousand pounds currency; anything in the said Ordinance, Acts or in any other law to the contrary notwithstanding.

How the two Registry Offices in the said County shall be distinguished.

V. And be it enacted, That from and after the first day of July next, the Registry Office now established in the said County of Dorchester shall be called the Registry Office of and for the now County of Dorchester, Division No. 1; and the Registry Office established by this Act shall be called the Registry Office of and for the County of Dorchester, Division No. 2.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. XLVI.

An Act to amend the Act for defining the Limits of Counties and Districts in Upper Canada.

[23rd May, 1846.]

WHEREAS it is necessary to amend the Schedule B, to the Act passed during the now last Session of this Parliament, and intituled, *An Act for better defining the limits of the Counties and Districts in Upper Canada, for erecting certain new Townships, for detaching Townships from some Counties and attaching them to others, and for other purposes relative to the division of Upper Canada into Townships, Counties and Districts*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so much of the said Schedule B as defines the limits of the Counties of Carleton and Grenville, respectively, and the Townships and places which they shall include and of which they shall consist, shall be repealed; and that the Schedule to this Act annexed shall be substituted in lieu thereof, and the said in part recited Act shall be construed as if the Schedule to this Act had formed part of the said Schedule B.

Preamble.

Act 8 Vict. c. 7, cited.

Limits of Carleton and Grenville to be as per Schedule to this Act.

SCHEDULE.

COUNTIES.

Carleton—Which shall include and consist of the Townships of Fitzroy, Goulbourn, that part of North Gower on the north side of the Rideau River, Gloucester, Huntly, March, Marlborough, Nepean, Osgoode, and Torbolton, and, except for the purposes of representation in the Legislative Assembly, the Town of Bytown.

Grenville—Which shall include and consist of the Townships of Augusta, Edwardsburg, South Gower, Oxford, Wolford, and that part of North Gower lying on the south side of the River Rideau, which shall be attached to and form part of the Township of South Gower.

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ANNO NONO
VICTORIÆ REGINÆ.

CAP. XLVII.

An Act to attach certain Territory therein described to the District of Huron for certain purposes.

[23rd May, 1846.]

WHEREAS it is expedient to attach the tract of Land hereinafter mentioned to the District of Huron: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all that portion of this Province lying to the northward of the District of Huron, and bounded on the north by Lake Huron and the Georgian Bay, which is not included in either of the Districts of Wellington or Simcoe, shall hereinafter, for all purposes of and connected with the administration of Justice, Civil and Criminal, form part of the said District of Huron, any thing in any Act or Law to the contrary notwithstanding; and that all Writs, Warrants, or other Process issued by any Court, Judge, Justice of the Peace or other competent authority having jurisdiction in the said District of Huron, shall extend to and may be lawfully executed within the said portion of this Province hereby added to the said District of Huron, and that the Sheriff, Bailiff, Constable or other lawful Officers appointed in and for the said District of Huron, may lawfully execute any such Writs, Warrants or other Process, within such portion of this Province as aforesaid, in like manner and with the same powers, protections, liabilities and immunities as they are now authorized to do within the said District of Huron.

Preamble.

A certain tract of Country to the northward of the District of Huron, to be attached to the said District.

Justices and Officers of the Huron District to have jurisdiction in the said tract.

II. Provided always, and be it enacted, That any action, suit or proceeding commenced before the passing of this Act, may be continued to trial and judgment, and the judgment therein may be executed as if this Act had not been passed.

Proviso as to proceedings in suits, &c., now pending.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. XLVIII.

An Act to convey a part of the Concession Line between the third and fourth Concessions of the Township of Barton, in the Gore District, to Robert Jarvis Hamilton.

[23rd May, 1846.]

WHEREAS the Gore District Council, by their By-law number thirty-eight, took from Robert Jarvis Hamilton a line of road across part of Lots Numbers Thirteen and Fourteen, in the third Concession of the Township of Barton, descending the mountain to the Town of Hamilton, for the accommodation of the public, in consequence of the Concession Line between the third and fourth Concessions descending the mountain on ground so steep as to be impracticable and useless as a road allowance, and by such By-law the said Council granted to Robert Jarvis Hamilton the said Concession Line in lieu of the road taken; And whereas by reason of the said Council not having power to make a grant of the public allowance for a road, the inhabitants of Hamilton and the Township of Barton have presented a Petition to Parliament with a plan of the road so taken, and the Concession Line granted, and a Report of the District Surveyor, by which it appears that the Concession Line so granted to the said Robert Jarvis Hamilton is altogether useless to the public, and that it is but just and reasonable that the said part of the Concession Line between the third and fourth Concessions should be granted to the said Robert Jarvis Hamilton, who is the owner of the land on each side thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the following part of the Concession Line between the third and fourth Concessions of the Township of Barton, in the Gore District, that is to say: commencing at the north-west corner of Lot Number Fourteen in the fourth Concession of Barton, thence south seventy-two degrees fifteen minutes east, twenty-four chains, to the intersection of Strangman's Road, with the allowance for road between the third and fourth Concessions, thence north seventeen degrees forty-five minutes east, one chain, thence north seventy-two degrees fifteen minutes west, twenty four chains more or less, to the south-east corner of Lot Number fifteen in the third Concession of Barton aforesaid, thence south seventeen degrees forty-five

Preamble.

Recital.

A certain part of the Concession Line between third & fourth Concessions of Township of Barton, vested in R. J. Hamilton, &c.

forty-five minutes west, one chain to the place of beginning—excluding the space occupied or required by the Port Dover Road—be and the same is hereby vested in the said Robert Jarvis Hamilton, his heirs and assigns for ever, in conformity to the said By-law and according to the prayer of the said Petition.

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ANNO NONO
VICTORIÆ REGINÆ.

CAP. XLIX.

An Act for defining and establishing the Course of the Side Lines of lots in the Gore of the Township of Gloucester, in the District of Dalhousie.

[18th May, 1846.]

WHEREAS certain inhabitants of the Gore of the Township of Gloucester, in the District of Dalhousie have, by their petition, represented that doubts have arisen as to whether there exists in the said Gore a proving or governing line by which the course of the side lines between the lots in the same may be determined, and for want of which they may be subjected to much loss and inconvenience, and have prayed that the side line laid down in the field in the month of July in the year of our Lord, one thousand eight hundred and thirty-seven, by Duncan McDonnell, Deputy Provincial Surveyor, as the division line between Lot A and Lot Number One in the said Gore, may be declared to be permanently established as the proving or governing line of the said Gore of the Township of Gloucester; and whereas it is just and proper that the prayer of the said petition be granted: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said side line laid down in the field by the said Duncan McDonnell in the month of July, in the year of our Lord, one thousand eight hundred and thirty-seven, as the division line between Lot A and Lot Number One in the said Gore of the Township of Gloucester be, and the same is hereby declared to be permanently established as the proving or governing line of the said Gore of the Township of Gloucester, and that all side lines in the said Gore shall be governed thereby; any law, usage or custom to the contrary in anywise notwithstanding.

Preamble.
Recital.

A certain described line, made the governing line for the Gore of the Township of Gloucester.

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A N N O N O N O

V I C T O R I Æ R E G I N Æ.

C A P. L.

An Act to repeal the Act therein mentioned, authorizing the raising of a sum of money in the District of Niagara, for the purpose of relieving the said District from debt.

[18th May, 1846.]

WHEREAS the objects for which the Act hereinafter mentioned was passed have been accomplished: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act of the Legislature of Upper Canada, passed in the third year of Her Majesty's Reign, and intituled, *An Act to authorize the raising of a sum of money in the District of Niagara, for the purpose of relieving the said District from debt*, shall be and is hereby repealed, together with so much of the Act of the Legislature of this Province, passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to continue for a limited time the several Acts therein mentioned*, as continues the said first mentioned Act.

Preamble.

Act U. C. 3
Vict. c. 43, and
part of 8 Vict.
c. 26, repealed.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. LI.

An Act to alter the mode of Assessment in the Towns of Niagara and Queenston.

[18th May, 1846.]

WHEREAS the District Council of the Niagara District have prayed for the repeal of a portion of the Act hereinafter mentioned, inasmuch as the same applies to the Assessment of the Town Lots in Niagara and Queenston : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the second section of the Act of the Legislature of Upper Canada, passed in the fifty-ninth year of the Reign of King George the Third, and intituled, *An Act to repeal the several Laws now in force, relative to levying and collecting Rates and Assessments in this Province, and further to provide for the more equal and general Assessment of lands and other rateable property throughout this Province*, shall be, and the same is hereby repealed, in so far as the same relates to the assessing Town Lots in the Towns of Niagara and Queenston, in the Niagara District, at a certain annual value.

Preamble.

Section 2 of Act of U. C., 59 Geo. 3, c. 7, repealed in so far as relates to the Towns of Queenston and Niagara.

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ANNO NONO
VICTORIÆ REGINÆ.

CAP. LII.

An Act to require Slides of certain dimensions to be erected upon the several Mill Dams in the River Moira and its tributaries, in the District of Victoria.

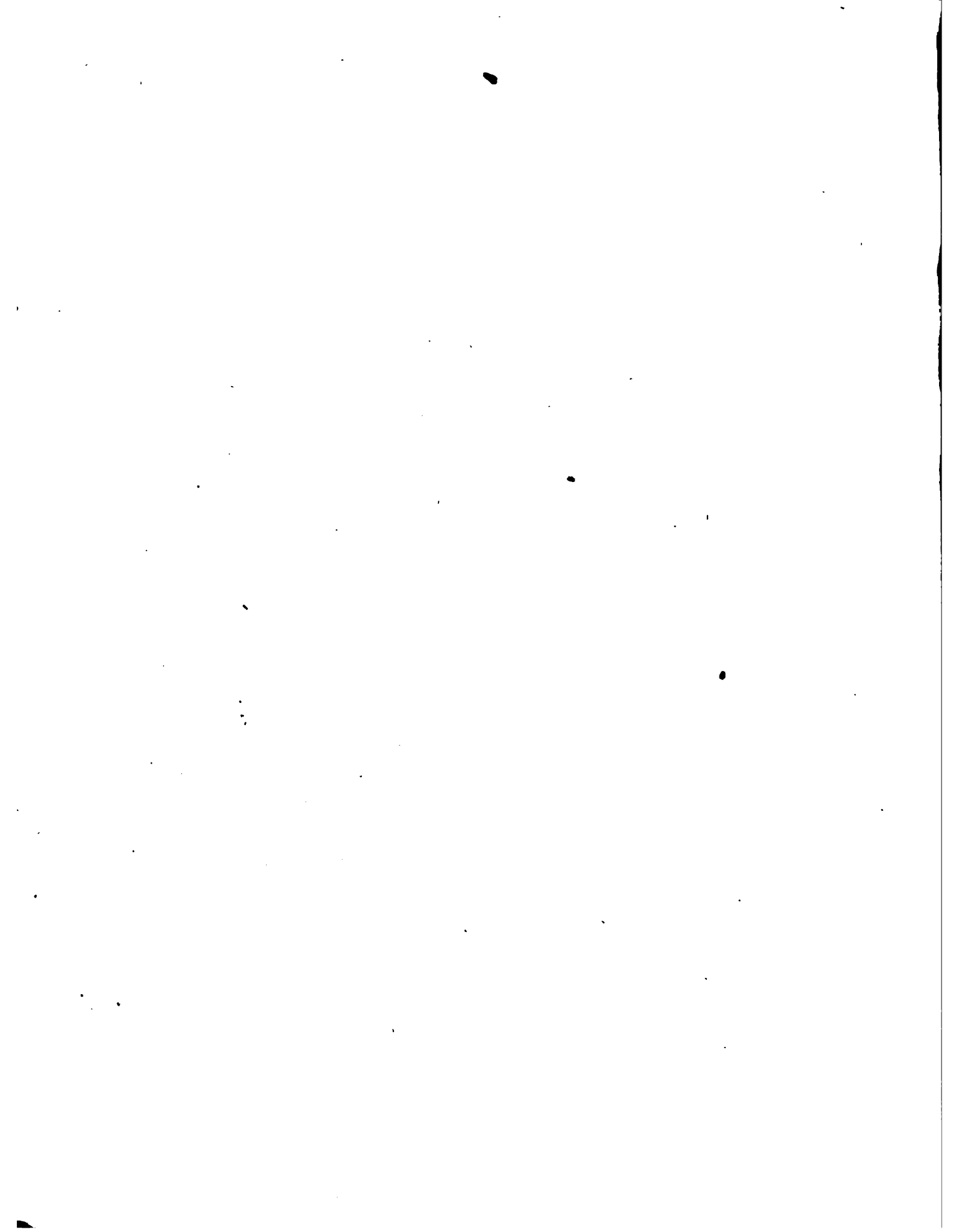
[23rd May, 1846.]

WHEREAS it is expedient to make more effectual provision for facilitating the passing of Lumber in the River Moira and its tributaries, on which Dams are erected, in the District of Victoria: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the owner or occupier of any dam erected, or which may hereafter be erected on the said river and its tributaries, in the District of Victoria, in Upper Canada, shall, on or before the first day of March next after the passing of this Act, construct a good and sufficient apron to such dam, at least thirty-two feet wide (if the dam be of greater width, and if not then of the same width as the dam) and at least eight feet in length for every foot rise of such dam, and the dam at the place at which the said apron shall be so constructed, shall be at least two feet lower than the top of the said dam (unless it occupy the whole width thereof as aforesaid) and the said apron shall be built in the main channel of the stream with the highest part thereof one foot below the said fall, under a penalty of two shillings and six pence, currency, for each day during which the requirements of this Act shall remain uncomplied with; and such penalty shall be recoverable before any two Justices of the Peace for the District in which the offence shall be committed, on the oath of two credible witnesses, and if not paid may be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of such Justices, or either of them, and one moiety of such penalty shall belong to Her Majesty for the public uses of the Province, and the other moiety to the prosecutor.

Preamble.

Owners or occupants of Dams on the River Moira, to construct aprons to the same of a certain form and size, before 1st March, 1847.

Penalty for neglect, and how recovered, levied and appropriated.





ANNO NONO

VICTORIÆ REGINÆ.

CAP. LIII.

An Act to repeal two certain Ordinances therein mentioned, relating to Winter Roads in that part of the Province heretofore Lower Canada, in so far as regards the District of Quebec, the District of Gaspé, and that part of the District of Three-Rivers which is or was in the Municipal District of Portneuf.

[9th June, 1846.]

WHEREAS it is expedient to amend the Ordinances of the Legislature of the late Province of Lower Canada, relating to Winter Roads, so as to exempt the District of Quebec, the District of Gaspé, and that part of the District of Three-Rivers which is or was in the Municipal District of Portneuf: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, so much of the Ordinance of the Legislature of the late Province of Lower Canada, passed in the Session held in the third and fourth years of Her Majesty's Reign, and intituled, *An Ordinance to provide for the improvement during the winter season of the Queen's Highways in this Province, and for other purposes*; or of the Ordinance of the said Legislature, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to amend the Laws relating to Winter Roads*, as enacts that no cariole, sleigh, berline, or other winter Carriage, other than the sleighs or sleds, in the aforesaid Ordinances described, shall be used on any of the Queen's Highways or Public Roads, within that part of this Province heretofore Lower Canada, shall be, and so much of the said Ordinances is hereby suspended until the first day of May, which will be in the year one thousand eight hundred and forty-seven, and from thence until the end of the then next Session of the Provincial Parliament, and no longer, in so far as regards the District of Quebec, the District of Gaspé, and that part of the District of Three-Rivers which is or was in the Municipal District of Portneuf, but shall remain in force in all other places in that part of this Province which formerly constituted the Province of Lower Canada.

Preamble.

L. C.
Ordinance 3 &
4 Vict. c. 25.

L. C.
Ordinance 4
Vict. c. 33.
Part of the said
Ordinances
further sus-
pended in so
far as regards
certain parts of
Lower Cana-
da.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. LIV.

An Act to enable the Ministers of the Associate Presbyterian Synod of North America to keep Registers of Baptisms, Marriages and Burials performed by them, and for other purposes.

[9th June, 1846.]

WHEREAS certain Protestant Inhabitants of this Province denominating themselves Members of the Church called *The Associate Presbyterian Synod of North America*, commonly known as "*Seceders*," have by their Petition to the Legislature, prayed that their present Ministers, and the persons who may hereafter succeed them as such, being duly ordained, and being subjects of Her Majesty, should be duly authorized to solemnize Marriages, administer Baptism, and inter the Dead, and to keep Registers authenticated in due form of law for that purpose, and that they may be empowered to purchase and hold lands for the purposes hereinafter mentioned; and whereas it is equitable that the prayer of their said Petition should be granted: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for any regularly ordained Minister of the said Church or Synod, having a fixed and permanent Congregation of Protestant Christians, Members of such Church or Synod, to obtain, have and keep (subject to all penalties by law in this behalf provided) Registers duly authenticated according to law, of all such Marriages, Baptisms and Burials, as may be performed or take place under the ministry of such Minister; and such Registers (the necessary formalities as by law already provided in relation to Registers of like nature being observed) shall to all intents and purposes have the same effect in law, as if the same had been kept by any Minister authorized by law to keep such Register in that part of this Province called Lower Canada; any law to the contrary notwithstanding.

Preamble.

Ministers of the said Synod may keep Registers of Marriages, Baptisms and Burials.

II. And be it enacted, That the Members of the said Church or Synod shall be entitled to all the privileges conferred upon divers Religious Societies of Christians by the Ordinance of the Governor and Special Council of the then Province of Lower Canada, passed in the second year of Her Majesty's Reign, and intituled, *An Ordinance to suspend an Act passed in the tenth and eleventh years of the Reign of His late Majesty George*

Members of the said Synod entitled to privileges conferred by Ordinance of L. C. 2 Vict (3) c. 26. as to lands.

George the Fourth, intituled, 'An Act for the relief of certain Religious Congregations therein mentioned,' and to make other Legislative provision in the place thereof, with respect to the acquiring, holding and possessing of lands for the purposes in the said Act mentioned.

Ministers to be a British subject and to take oath of allegiance.

Fee to Prothonotary.

2s. 6d.

Certificate of ordination, &c., to be produced; and

Security to be given by the Minister.

Duplicate of Register to be property of Congregation in certain cases.

Registers kept under this Act to be valid in law;

As if kept under 35 Geo. 3, c. 4, L. C.

Proviso: the said Act to be complied with.

III. Provided always, and be it enacted, That no Minister of the said Church or Synod shall be entitled to the benefit of this Act unless he shall be a subject of Her Majesty and shall have taken the oath of allegiance to Her Majesty, Her Heirs or Successors, before a Judge of the Court of Queen's Bench for the District in which he shall reside, (which oath such Judge is hereby authorized and required to administer;) and a certificate of the taking of such oath shall be made by the Prothonotary of such Court in duplicate, and signed by the Judge, and one copy of such certificate shall be filed of record in the office of such Prothonotary, and the other shall be delivered to the person taking such oath; and for such certificate and the duplicate thereof, and for filing the same, the Prothonotary shall be entitled to two shillings and six pence, currency, and no more; nor shall any such Minister be entitled to the benefit of this Act, unless he shall at the time of taking such oath as aforesaid, produce to the Judge who shall administer the same, the certificate of his ordination, and of the invitation or call to become their Minister by him received from his Congregation, and of his installation as such Minister, or legally attested copies of such documents, respectively; and all such documents shall be copied into each Register to be kept by such Minister under the authority of this Act, and the copies so made therein certified to be correct by the Prothonotary before such Register shall be authenticated by him or by any Judge of the Court; nor shall any such Minister be entitled to the benefit of this Act, unless he shall, at the time of taking the oath aforesaid, give security in the sum of one hundred pounds, currency, jointly and severally with two good and sufficient sureties, before and to the satisfaction of the Judge who shall administer such oath, that whenever he shall by death or otherwise cease to be the Minister of the Congregation with reference to which the Register shall be kept, each and every Register not previously deposited in the Prothonotary's Office in which it ought by law to be deposited, shall be so deposited within two months after he shall have ceased to be such Minister.

IV. Provided always, and be it enacted, That whenever the connection between any such Minister and his Congregation shall cease, the duplicate of the Register shall be the property of the said Congregation, and shall be deposited with the elders thereof to be kept by the successor of such Minister, for the use of the said Congregation.

V. And be it enacted, That the Registers which shall have been so kept, and the several entries made therein according to the laws in force in that part of this Province called Lower Canada, as well as authentic copies of the entries therein made, shall to all intents and purposes be good and available in law as if the said Register had been kept pursuant to the Act passed by the Legislature of the late Province of Lower Canada, in the thirty-fifth year of the Reign of His late Majesty George the Third, intituled, *An Act to establish the form of Registers of Baptisms, Marriages and Burials, to confirm and make valid in law the Registers of the Protestant Congregation of Christ Church, Montreal, and others which may have been informally kept, and to afford the means of remedying omissions in former Registers:* Provided always, that all and every the regulations and requirements of the said Act with respect to the Registers therein mentioned, be also observed with respect to the Registers to be kept pursuant to this Act.

VI. Provided always, and be it enacted, That the Ministers keeping Registers pursuant to this Act, shall in all respects comply with and be governed by the above recited Act, and shall in case of disobedience to the said Act be liable to the penalties in like cases provided by the said Act, which penalties shall also be recoverable, paid, applied, and accounted for in the same manner as the penalties by the said Act imposed are thereby directed to be recoverable, paid, applied and accounted for.

Ministers to comply with Act L. C. 35 Geo. 3, c. 4, under certain penalties.

VII. And be it enacted, That nothing herein contained shall affect or be construed to affect in any way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any body politic or corporate, or of any person or persons, such only excepted as are herein mentioned.

Not to affect rights of Her Majesty, &c.

VIII. And be it enacted, That this Act shall have force and effect in that part of the Province of Canada, only, heretofore called Lower Canada.

Act to apply only to L. C.

IX. And be it enacted, That this Act shall be taken and deemed to be a Public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace, and all others whom it shall concern without being specially pleaded.

Public Act.

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ANNO NONO
VICTORIÆ REGINÆ.

CAP. LV.

An Act to authorize the Quebec Trinity House to licence as Pilots a certain class of persons therein mentioned.

[9th June, 1846.]

WHEREAS it appears that divers persons commenced their apprenticeship as Pilots for and below the Harbour of Quebec, at a time when under a certain By-law of the Trinity House of Quebec, ordained on the thirteenth day of May, one thousand eight hundred and thirty-six, and sanctioned by His Excellency the Earl of Gosford, then Governor of Lower Canada, on the sixteenth day of June, in the same year, it was provided that after the expiration of three years from the day such By-law should be sanctioned and published, no Certificate of Qualification should be granted to any such Apprentice to enable him to obtain a Branch as a Pilot, unless at his examination he should prove his ability to read and write, but without limiting him to either language; And whereas the said Trinity House of Quebec did afterwards, by a certain By-law ordained on the twenty-eighth day of December, one thousand eight hundred and thirty-eight, and sanctioned by His Excellency Sir John Colborne, then Administrator of the Government of Lower Canada, on the thirty-first day of the same month, order that upon the expiration of two years from the sixteenth day of June, one thousand eight hundred and thirty-nine, no Certificate of Qualification should be granted to any Apprentice Pilot, to enable him to obtain a Branch as a Pilot, unless at his examination he should prove his ability to speak the English language, and to read and write the same, and that he had also a competent knowledge of arithmetic; And whereas the persons aforesaid, having commenced their apprenticeship when the first mentioned only of the said By-laws was in force, have complained that the By-law secondly mentioned, ought not in justice to extend to them, but that the said Trinity House of Quebec do so extend it; And whereas the said complaint appears to be well founded: Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the By-law secondly mentioned in the Preamble to this Act, shall not apply to any Apprentice Pilot who commenced his apprenticeship before the said By-law was sanctioned; and the Master, Deputy-Master and Wardens of the Trinity House of Quebec shall grant a Certificate of Qualification to receive a Licence or Branch

Preamble.

By-law of
Quebec Tri-
nity House,
13th May,
1836,

And of 28th
December,
1828, cited.

Last above
mentioned By-
law not to ap-
ply to Appren-
tices who com-
menced their

apprenticeship
before the said
By-law was
sanctioned.

On what con-
ditions they
shall obtain
certificates for
branches.

Branch as a Pilot for and below the Harbour of Quebec, to any such Apprentice Pilot, who shall have proved to their satisfaction at his examination, that he is qualified in the manner provided by the By-law first mentioned in the Preamble to this Act, and according to the Acts of the Legislature in that behalf made and provided; nor shall any such Apprentice Pilot who shall heretofore at his examination have proved to the satisfaction of the said Master, Deputy-Master and Wardens, his ability to read and write in either language, be again examined as to such ability.

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ANNO NONO
VICTORIÆ REGINÆ.

CAP. LVI.

An Act to regulate the Poundage to be received by Sheriffs on Executions,
and for other purposes therein mentioned.

[9th June, 1846.]

WHEREAS doubts have been raised as to the true intent and meaning of the thirty-second Section of the Act of the Legislature of the Province of Upper Canada, passed in the seventh year of the Reign of King William the fourth, and intituled, *An Act for the further amendment of the Law, and the better advancement of Justice*, and it is expedient to remove such doubts: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said thirty-second Section of the said Act be and the same is hereby repealed.

Preamble.

Act of U. C.
7 Will. 4. c. 3,
cited.

Sect. 32 of the
said Act re-
pealed.

II. And whereas in cases where Writs of Execution have been issued into several Districts, upon which Writs, property, real or personal may have been seized or advertized, which property has afterwards not been sold on account of satisfaction having been otherwise obtained, or from some other cause, it has been doubted whether a claim to poundage may not be advanced by the Sheriff of each of such Districts respectively, although no money has been actually levied by them under such Writ: Be it therefore enacted, That where upon any such Writ of Execution sued out against the estate, real or personal of the Defendant or Defendants, no money shall be actually levied, no poundage shall be allowed to the Sheriff, but he shall be allowed his fees for the services which may be actually rendered by him; and it shall be in the power of the Court from whence such Execution shall have issued, or for any Judge thereof in vacation, to allow a reasonable charge to the Sheriff, for any service rendered in respect to such execution, for which no specific fee or allowance may be assigned in the table of costs.

In what cases
and to what
amount pound-
age shall be
allowed to
Sheriffs.

III. And be it enacted, That the Sheriff shall not be entitled to poundage on any execution against goods and chattels, (except in cases where the full amount shall be collected by him,) on a greater sum than the value of the property actually seized by him under any Writ of Execution, whatever be the sum mentioned or endorsed upon such Writ.

Further limita-
tion as to
amount of
poundage.

IV.

A single Judge may make the necessary order in cases under 7 Vic. c. 31, arising out of a reversal of claims of third parties.

IV. And whereas by an Act passed in the seventh year of the Reign of Her present Majesty, intituled, *An Act to enable Courts of Law, in that part of this Province called Upper Canada, to give relief against adverse claims made upon persons having no interest in the subject of such claims*, provision is made for the relief of Sheriffs and other Officers concerned in the execution of Process issued out of Her Majesty's Court of Queen's Bench for Upper Canada, or out of any of Her Majesty's District Courts in that part of this Province, against goods and chattels, in cases of difficulty arising by reason of claims made to such goods and chattels by third parties, but such relief can only be given by Rule of Court: And whereas it is expedient that a single Judge should possess the power of giving relief in that respect: Be it therefore enacted, That it shall be lawful for any Judge of the said Court of Queen's Bench with respect to any such Process issued out of such Court, or for the Judge of any District Court with respect to Process issued out of such District Court, to exercise such powers and authorities for the relief and protection of the Sheriff or other Officer, as may, by virtue of the said last mentioned Act, be exercised by the said several Courts, respectively, and to make such Order therein as shall appear to be just; and the costs of such proceeding shall be in the discretion of such Judge.

Sheriff's costs how paid in cases of adverse claims by third parties.

V. And be it enacted, That when and so often as it shall happen that, in consequence of any adverse claim being made to any property seized or taken in execution by any Sheriff or other Officer, any Rule, Order or Summons shall or may be obtained by such Sheriff or other Officer under the provisions of the Act last above cited, and the Court or Judge by whom such Rule, Order or Summons may have been issued, or before whom the same may be returnable, shall direct an issue to be tried for the determination of such adverse claim, it shall and may be lawful for such Sheriff or other Officer, to tax the costs which he shall or may have incurred in consequence of such adverse claim, and to serve a copy of the *allocatur* of the same when taxed, upon each of the parties to the said issue, and the successful party upon the said issue shall tax such costs among his costs of the cause, and upon receipt of the same, shall pay them over to such Sheriff or other Officer: Provided always, that if after the service of such *allocatur* of the costs, the party succeeding upon such issue, shall neglect or refuse to tax such costs among the costs of the cause, such Sheriff or other Officer may nevertheless obtain a Rule upon such successful party for the payment of the same; And provided also, that if any such proceeding shall be compromised between the parties thereto, such costs of the Sheriff or other Officer shall be paid by the party, plaintiff or defendant, by whom the execution was issued.

Proviso in case of refusal to pay.

Proviso in case compromise between the parties.

Allowance may be made to Sheriff having property in custody pending the trial of such claims.

VI. And be it enacted, That when after the seizure of any property in execution, an issue shall be directed under the provisions of the Act last above cited, and the property so seized shall remain in the custody of the Sheriff or other Officer seizing the same, pending the trial of such issue, the Court from which such execution shall have issued, or any Judge thereof, in vacation, may make an Order for the payment to such Sheriff or other Officer, of such sum for his trouble in and about the custody of such property, as such Court or Judge shall deem reasonable, and such Sheriff or other Officer shall have a lien upon the property for the payment of the same.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. LVII.

An Act to provide for the removal of the Registry Office of the County of Nicolet, from the place where it is now kept to Bécancour.

[9th June, 1846.]

WHEREAS the inhabitants of the Eastern parts of the County of Nicolet, lie under great disadvantage by reason of the great distance at which they are from the present Registry Office for the County, which said office is established at Nicolet, at the Western extremity of the County, instead of at Bécancour, the central parish of the said County; And whereas there are no legal means of remedying the evils complained of: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government of this Province, by and with the advice of the Executive Council thereof, to order the removal of the Registry Office of the said County from the place where it is now kept to Bécancour, the central Parish of the County of Nicolet.

Preamble.

The Governor in Council may cause the Registry Office of the County of Nicolet to be removed to Bécancour.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. LVIII.

An Act for defraying the expenses of the Administration of Justice in Criminal matters in that part of the Province formerly Upper Canada.

[9th June, 1846.]

WHEREAS it is expedient to provide that the expenses of the administration of Criminal Justice in Upper Canada, now paid by local taxation, shall in time to come be paid out of the public funds of this Province, under the provisions hereinafter made: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That one third of the expenses of the administration of Criminal Justice in that part of this Province which formerly constituted the Province of Upper Canada, for and during the present year one thousand eight hundred and forty-six, shall be paid out of the Consolidated Revenue Fund of this Province, that two thirds of the expenses of the same for and during the year one thousand eight hundred and forty-seven, shall be paid out of the said Fund, and that, for and during each year thereafter, the whole of the said expenses shall be paid out of the said Fund; and so much of any Act or Law as may be inconsistent with this Act shall be and is hereby repealed.

Preamble.

One third of the expenses of the administration of Justice in Upper Canada to be paid out of Provincial funds in 1846, two thirds in 1847, and the whole thereafter.

II. And be it enacted, That all accounts of or relative to the said expenses of the administration of Criminal Justice, shall be examined, audited, vouched, and approved under such regulations as the Governor, or person administering the Government of this Province shall, by and with the advice of the Executive Council thereof, from time to time direct and appoint.

Accounts to be audited in such manner as the Governor in Council shall appoint.

III. And be it enacted, That the several heads of expense mentioned in the Schedule to this Act, shall be deemed expenses of the administration of Criminal Justice within the meaning of this Act.

What shall be deemed such expenses.

SCHEDULE.

SCHEDULE.

CLERK OF THE PEACE.

Furnishing annually, Lists of Constables to the Sheriff, and Coroner,

Making up Lists, pursuant to the Statute 4 and 5 Victoria, chapter 3, section 32, of persons qualified by law to serve as Jurors, residing within the limits of each Division Court, specifying the place of residence and addition of each person, including the certificate and the transmission of the list to the Clerk of each Division Court,.....

Copies of Depositions or Examinations furnished to Prisoners or Defendants, or their Counsel, when proper to be furnished, and required by the party or his Counsel, under the Act 4 and 5 Victoria, chapter 24, sections 12 and 23,.....

If payable by the Crown ; and to be paid by the Crown, or by the party applying, according to the nature of the case.

Receiving and filing each Presentment of the Grand Jury,.....

If payable by the Crown ; and to be paid by the Crown, or by the party, as the case may be.

Arraigning each Prisoner or Defendant indicted, and recording plea,

Empanelling and Swearing the Jury in every case, whether Criminal or otherwise, where by law a trial by Jury is to be had at the Quarter Sessions, and where no fee is fixed by Statute,.....

Swearing each Witness for the prosecution, upon any trial by a Jury, or to go before the Grand Jury,.....

Filing each Exhibit upon a trial,.....

Charging the Jury with the Prisoner or Defendant, upon each indictment,.....

Receiving and Recording each verdict of a Jury, in any case of trial by Jury,.....

Recording each Judgment or Sentence of the Court, upon verdict or confession,.....

Making out and delivering to the Sheriff a Calendar of the Sentences at each Court,.....

Certified Copy of Sentences sent with the Prisoner to the Penitentiary, after each Session,.....

Making

Making up Record of Conviction or Acquittal, in any case where it may be necessary,.....

If payable by the Crown ; and to be paid by the Crown, or by the party, as the case may be.

Discharging any Prisoner by Proclamation,.....

Drawing out and taking each Recognizance to appear, either of Prosecutor, Defendant or Witness,.....

Calling parties on their Recognizance and recording their non-appearance,.....

Making out Lists of forfeited Recognizances and Fines, to submit to the Justices after each Quarter Sessions, in order to their being estreated,.....

Entering any Order of Sessions to remit an estreat, and recording an entry of the same,.....

If payable by the Crown ; and to be paid by the Crown, or by the party relieved, as the Justices may order.

Drawing Order of the Justices to estreat and put in process,.....

Entering and extracting upon a Roll, in duplicate, the Fines, Issues, Amerciaments and forfeited Recognizances, recorded in each Session, making oath to the same, and transmitting it to the Sheriff,.....

Making out and delivering to the Sheriff the Writ of *fieri facias* and *capias* thereon,.....

Making out and certifying copy of Roll and Return of Sheriff, and transmitting it to Receiver General,.....

Making up Books of Orders of Sessions, declaring the limits of the Division Courts, and entering the times and places of holding the Courts,.....

Making out and transmitting a copy thereof to the Government,....

Making out and transmitting copies (with letter) to the Clerk of each Division Court, of the Divisions made by the Quarter Sessions,.

Drawing Orders of Sessions for altering the limits of Division Courts,

Making out and transmitting copies of such Orders to the Government,.....

Making out and transmitting copies of such Orders to each Division Court affected by the alteration,.....

For each Copy of Schedule of Division Courts, with the Order of Sessions for publication,.....

Swearing each party to an Affidavit, where no charge is elsewhere provided for it,.....

If payable by the Crown; and to be paid by the Crown, or by the party for whom the Affidavit is sworn, according to the nature of the case.

S H E R I F F .

Notice of appointment to the Associate Justices of Oyer and Terminer,.....

Attending the Assizes,.....

Attending the Quarter Sessions,.....

Summoning each Grand Jury for the Assizes or Quarter Sessions,...

Summoning each Petit Jury for the Assizes or Quarter Sessions,....

For every Prisoner discharged from Gaol, having been committed by Warrant for trial at the Assizes or Quarter Sessions, or Mayor's Court,.....

Bringing up each Prisoner for arraignment, trial and sentence, whether convicted or acquitted,.....

Drawing Calendar of Prisoners for Trial at the Assizes, including copies,.....

Drawing Calendar of Prisoners for trial at the Quarter Sessions, including copies,.....

Advertising the holding the Assizes or Quarter Sessions,.....

Every Annual or General Return, required by law, or by the Government, respecting the Gaol or the Prisoners therein,.....

Every other Return made to the Government or to the Sessions, required by Statute or by order of the Court,.....

Returning Precept to the Assizes or Sessions,.....

Conveying Prisoners to the Penitentiary, or to another District, and disbursements,

If payable by the Crown; and to be paid by the Crown, or by the party, as the case may be.

Arrest of each individual upon a Warrant,.....

Serving Subpœna for the Crown upon each person,.....

Conveying Prisoners on Attachment or *Habeas Corpus* to another District, and disbursements,.....

Making return upon Attachment or Writ of *Habeas Corpus*,.....

Levying Fines or Issues on Recognizances estreated, and mileage,....

To be levied according to 8 Vict. chap. 38, sec. 2.

Carrying into execution the Sentence of the Court in capital cases,..

Attending and superintending the Execution in such cases,.....

Summoning each Constable to attend the Assizes or Sessions,.. ..

Every notice to a Magistrate, under the Statute, 8 Victoria, chapter 14, section 6, and mileage,

Keeping a Record of Jurors who have served at each Court,.....

All disbursements actually and necessarily made in guarding Prisoners, or in their conveyance to the Penitentiary, to any other District or elsewhere, or for other purposes in the discharge of the duties of the Office, (when not provided for by law nor hereinbefore specifically,) to be allowed by the Justices in Sessions,.....

C O R O N E R .

Precept to summon Jury,.....

Empanelling a Jury,.....

Summons for Witnesses,.....

Information or Examination of each Witness,.....

Taking every Recognizance,.....

Necessary travel to take an Inquest,.....

Taking Inquisition and making Return,.....

Every Warrant,.....

C O N S T A B L E .

Arrest of each individual upon a Warrant,.....

If payable by the Crown; and to be paid by the Crown, or by the party, as the case may be.

Serving Summons or Subpcena,.....

Mileage,.....

If payable by the Crown ; and to be paid by the Crown, or by the party, as the case may be.

Attending Assizes or Sessions,.....

Attending any Justice on the examination of Prisoners charged with any crime,.....

If payable by the Crown ; and to be paid by the Crown, or by the party, as the case may be.

Mileage in going to serve Summons or Warrant when the service has not been effected ; the Justices in Session to be satisfied that due diligence has been used,.....

Taking Prisoners to Gaol,—and disbursements necessarily expended in their conveyance,.....

Summoning Jury for Inquest,.....

Attending Inquest for each day other than the first,.....

Serving notice of appointment of Constables, when personally served,

C R I E R .

Making Proclamation for opening or adjourning the Courts of Assize and *Nisi Prius*, Oyer and Terminer, and General Gaol Delivery and Quarter Sessions,.....

Making every other Proclamation,.....

Calling and Swearing Grand Jury,.....

Calling and Swearing every Petit Jury,.....

Calling and swearing every Witness or Constable,.....

Attending Assizes and Quarter Sessions,.....

O T H E R M A T T E R S .

The maintenance of Prisoners confined upon Criminal charges,.....

A proportion of the Salary of the Gaoler of each District Gaol, and of the payment of Turnkeys,.....

Medicines, Fuel and other similar necessities for the Gaol, and the Prisoners confined on Criminal charges,.....

Disbursements in transporting Prisoners to the Penitentiary, and for carrying other Sentences of the Courts into effect,.....

Together with all other charges relating to Criminal Justice payable to the foregoing Officers specially authorized by an Act of the Legislature, and heretofore payable out of District funds,.....



ANNO NONO

VICTORIÆ REGINÆ.

CAP. LIX.

An Act for the appropriation of the Revenues arising from the Jesuits' Estates, for the year one thousand eight hundred and forty-six.

[9th June, 1846.] •

WHEREAS it is expedient to provide by Act of the Parliament of this Province, for the application of the revenues and interest arising from the Estates of the late Order of Jesuits to Educational purposes in Lower Canada, and to appropriate certain sums out of the same for such purposes during the present year: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the revenues and interest arising from the real or funded property forming part of the Estates of the late Order of Jesuits, and now at the disposal of the Legislature for Educational purposes in that part of this Province which formerly constituted the Province of Lower Canada, shall be and are hereby declared to be applicable to such purposes, and to no other; and that from and out of the said revenues and interest there shall be paid for and during the present year one thousand eight hundred and forty-six, the several sums mentioned in the Schedule annexed to this Act, for the purposes therein expressed.

Preamble.

Revenues and interest arising from the Jesuits' Estates, to be applied to Educational purposes in Lower Canada. Appropriation for 1846.

II. And be it enacted, That the due application of the monies hereby appropriated shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of the Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall be pleased to direct.

Accounting clause.

SCHEDULE.

SCHEDULE.

EDUCATIONAL INSTITUTIONS.	AMOUNT CURRENCY.		
	£	s.	d.
For the salary and allowance for House Rent to the Master of the Grammar School at Montreal,.....	282	4	6
Aid towards the support of the National School at Quebec,.....	111	2	3
The same at Montreal,.....	111	2	3
Aid to the Education Society at Quebec,.....	280	0	0
“ to the Education Society at Three-Rivers,.....	125	0	0
“ to the British and Canadian School at Quebec,.....	200	0	0
“ to the same at Montreal,.....	200	0	0
“ to the St. Andrew's School at Quebec,.....	100	0	0
“ to the Montreal Recollet School,.....	100	0	0
“ to the St. Jacques School at Montreal,.....	250	0	0
“ to the Montreal American Presbyterian Free School,.....	100	0	0
“ to the College of Ste. Anne de la Pocatière,.....	300	0	0
“ to the College of St. Hyacinthe,.....	300	0	0
“ to the College of Chambly,.....	300	0	0
“ to the College of L'Assomption,.....	175	0	0
“ to the Academy at Berthier,.....	100	0	0
“ to the Academy at Charlestown,.....	100	0	0
“ to the Stanstead Seminary,.....	100	0	0
“ to the Shefford Academy,.....	100	0	0
“ to the Sherbrooke Academy,.....	111	2	3
“ to the Revd. Andrew Balfour's School at Waterloo,.....	100	0	0
“ to the Master of the School under the Royal Institution at Three-Rivers,.....	45	0	0
“ to the British North American School Society at Sherbrooke,.....	50	0	0
“ to the High School in Durham Village, Missisquoi,.....	100	0	0
“ to the Infant School at Quebec,.....	55	11	1
“ to the Female School at Indian Lorette near Quebec,.....	50	0	0
“ for an Indian School at Caughnawaga,.....	50	0	0
“ for the same at St. Regis,.....	50	0	0
“ for the same at St. Francis,.....	50	0	0
“ to the School at Ste. Thérèse,.....	200	0	0
“ to the do. do. for building,.....	150	0	0
“ to the College of Ste. Anne de la Pocatière for re-building,.....	150	0	0
“ to the College of St. Hyacinthe for re-building,.....	1000	0	0
Total,.....	£5496	2	4

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. LX.

An Act to authorize the appropriation of nineteen thousand pounds to the improvement of the Gulf of St. Lawrence.

[9th June, 1846.]

WHEREAS it is expedient that the monies herein mentioned be appropriated for purposes connected within the improvement of the navigation of the River and Gulf of St. Lawrence: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the sum of nineteen thousand pounds advanced out of the public monies to the Commissioners for the improvement of the Harbour of Montreal, shall, as the same shall be repaid, and including such part as may have been repaid before the passing of this Act, be applicable and be applied to the erection of Light-houses and the establishment and support of Relief Stations and other improvements in the navigation of the River and Gulf of St. Lawrence from Quebec to the Ocean, under the superintendence of the Trinity House of Quebec, and under the authority, orders and direction of the Governor, Lieutenant Governor, or person administering the Government, acting by the advice of the Executive Council thereof.

Preamble.

£19,000 due to the Province by the Montreal Harbour Commissioners, appropriated for improving the navigation of the St. Lawrence from Quebec to the Ocean.

II. And be it enacted, That the due application of the monies hereby appropriated, shall be accounted for to Her Majesty, Her Heirs and Successors through the Lords Commissioners of the Treasury, in such manner as Her Majesty, Her Heirs or Successors shall be pleased to direct.

Accounting clause.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. LXI.

An Act to authorize the issue of Debentures for the erection of a Lunatic Asylum at Toronto.

[9th June, 1846.]

WHEREAS it is expedient to make further provision for erecting and furnishing the Lunatic Asylum at the City of Toronto: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That there be granted to Her Majesty a sum not exceeding thirty thousand pounds, currency, to be raised by Debentures in the manner hereinafter mentioned, to enable Her Majesty to defray the expense of erecting and furnishing the Lunatic Asylum at the City of Toronto now in progress, and to be applied to that purpose under such regulations as the Governor in Council shall from time to time direct and appoint, for the guidance of the Commissioners appointed or to be appointed, according to the Statute of Upper Canada, in that behalf made and provided.

Preamble.

£30,000 granted, to be raised by Debentures, for completing the Lunatic Asylum at Toronto.

II. And be it enacted, That for the purpose of raising such sum as aforesaid, it shall be lawful for the Governor in Council to authorize the issue of Debentures to an amount not exceeding the said sum, in such form, and for such separate sums, and redeemable respectively at such times, as may be found most convenient, bearing interest at a rate not exceeding six *per centum* per annum; the principal and interest of the said Debentures not being chargeable upon the Consolidated Revenue Fund of this Province, but being payable out of the proceeds of the rate or tax of one-eighth of a penny in the pound imposed by the Act of the Legislature of Upper Canada, passed in the second year of Her Majesty's Reign, and intituled, *An Act to authorize the erection of an Asylum in this Province, for the reception of Insane and Lunatic Persons*, as the same shall come into the hands of the Receiver General,—the proceeds of which said rate or tax are hereby specially appropriated to the payment of the said principal and interest.

Mode of raising such sum and out of what monies it shall be repaid.

Act of U. C. 2 Vict. c. 11, cited.

III. And be it enacted, That if any person or persons shall forge or counterfeit any Debenture to be issued under the authority of this Act, or any stamp, indorsement

Penalty on persons counterfeiting Debentures, &c.
OR

or writing thereon or therein, or shall demand to have such counterfeit Debenture, or any Debenture with such counterfeit writing or other indorsement thereon or therein, to be exchanged for money by any person or persons who shall be obliged or required to exchange the same or by any other person or persons whomsoever, knowing the Debenture so tendered or the indorsement or writing thereon or therein to be so forged or counterfeited, with intent to defraud Her Majesty, Her Heirs and Successors, or the person appointed to pay the same or any of them, or any other person or persons, body or bodies politic or corporate, then every person so offending being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer such punishment as shall be adjudged in that behalf, not exceeding imprisonment at hard labour in the Provincial Penitentiary for seven years.

Governor may
by Proclama-
tion call in
any of the
Debentures.

IV. And be it enacted, That it shall and may be lawful for the Governor of this Province at any time by Proclamation to call in any of the said Debentures, although the time therein named for the payment thereof may not have arrived, in order that the same may be paid off; and that at the expiration of six months from the date of such Proclamation, all interest on the Debentures called in for payment as aforesaid shall cease.

Accounts to
be laid before
the Legisla-
ture at each
Session.

V. And be it enacted, That accounts in detail of all monies received and paid, and of the Debentures issued and the interest thereon, and of the redemption of the whole or any part of such Debentures, and of all expenses attending the collection and payment of the sums of money collected, received or paid by authority of this Act, shall be laid before the Legislature of this Province at each Session thereof.

Accounting
clause.

VI. And be it enacted, That the due application of the monies so to be raised shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall be graciously pleased to direct.

Interpretation
clause.

VII. And be it enacted, That the words "Governor in Council," whenever they occur in this Act, shall be construed to mean the Governor, Lieutenant Governor, or person administering the Government of this Province, acting by and with the advice of the Executive Council thereof.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXII.

An Act for enabling Her Majesty to direct the issue of Debentures to a limited amount, and for giving relief to the City of Quebec.

[9th June, 1846.]

MOST GRACIOUS SOVEREIGN :

WHEREAS in consideration of the heavy losses which have been sustained in the City of Quebec, in consequence of the great destruction of property by fire, it is expedient that Your Majesty's Governor General, Lieutenant Governor, or person administering the government of this Province, be authorized to raise by a loan the sum of one hundred thousand pounds, currency, to be issued to Commissioners, to be by them advanced, under certain regulations and restrictions, for the assistance and accommodation of the said City of Quebec and of such persons having property therein and connected therewith as shall be desirous of receiving the same for the purpose of rebuilding, on due security being given for the repayment of the sums so advanced within a time to be limited : May it therefore please Your Majesty, That it may be enacted, and Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the government of this Province, to authorize and direct Her Majesty's Receiver General of this Province to raise by loan from any person or persons, bodies corporate or politic who may be willing to advance, upon the credit of the Government bills or debentures authorized to be issued under this Act, the said sum of one hundred thousand pounds, currency, and that as soon as the said sum of one hundred thousand pounds, currency, or any part thereof, shall be so raised, it shall and may be lawful for the Governor to issue his Warrant upon the said Receiver General for the same, in favour of the said Commissioners, to be by them advanced and lent upon the terms and conditions hereinafter provided respecting the same.

Preamble.

Governor may authorize Receiver General to raise a sum of £100,000 currency, by Government debentures.

II. And be it enacted, That it shall and may be lawful for the Receiver General for the time being, to cause and direct any number of debentures to be made out for any such sum or sums of money, not exceeding in the whole the said sum of one hundred thousand pounds, as any person or persons, bodies corporate or politic shall agree to advance

Receiver General may issue debentures for any sum not more than £100,000 currency, at a rate

ON

of interest not exceeding 5 per cent.

on the credit of the said debentures, which debentures shall be prepared and made out in such method and form as Her Majesty's Receiver General shall think most safe and convenient, and be signed by him, and shall be made payable at such period and for such sums and at such rate of interest not exceeding five pounds per centum per annum as shall be found most advisable.

Proviso : debentures to be taken in payment by the Receiver General, Collectors of Customs, &c., after they are due.

III. Provided always, and be it enacted, That the said debentures to be made out by virtue of this Act, or so many of them as shall, from time to time, remain undischarged and uncanceled after the respective days on which they shall become due and payable, shall after that time pass and be current to all and every the Collectors and Receivers in this Province, of the Customs or any revenue or tax whatsoever already granted, due or payable, or which shall or may hereafter be granted, due or payable to Her Majesty, Her Heirs and Successors under and by virtue of any Act of the Parliament of this Province, or of either of the former Provinces of Lower and Upper Canada, and also at the office of the Receiver General of this Province from the said Collectors and Receivers, or from any other person or persons, bodies politic or corporate whatsoever, making any payments whatever then to Her Majesty, Her Heirs and Successors, for and upon any account, cause or occasion whatsoever; and that the same, in the hands of such Collectors and Receivers and in the hands of the Receiver General of this Province, shall be deemed and taken as cash, and as such shall be charged against and credited to such Collectors and Receivers and to such Receiver General as aforesaid respectively, in their respective accounts with each other, and with Her Majesty, Her Heirs and Successors; but no such Collector or Receiver shall exchange at any time before the day of payment thereof for any money of such revenue, aid, or taxes in his hands, any debentures which shall have issued as aforesaid by virtue of this Act, nor shall any action be maintained against any such Collector or Receiver for neglecting or refusing to exchange any such debenture for ready money before the day of payment thereof; any thing in this Act to the contrary notwithstanding.

Proviso ; debentures not to be so taken until due.

All debentures to be chargeable on Consolidated Revenue Fund.

IV. And be it enacted, That all debentures made out and issued in pursuance and for the purposes of this Act, together with the interest thereon, to be computed from the day of the date of such debentures, respectively, until the time of payment thereof, shall be chargeable on the Consolidated Revenue Fund of this Province.

Interest due on debentures to be allowed to persons, &c., paying the same to the Receiver General, Collectors, &c.

Proviso. Public Officers not chargeable with interest on debentures while in their hands.

Provided certain particulars to be indorsed on debentures when paid to them.

V. And be it enacted, That the interest which, from time to time, shall be due upon any such debentures as aforesaid, shall be allowed to all persons, bodies politic and corporate paying the same to the Receiver General of this Province, or to any Collector or Receiver of any of Her Majesty's Customs, revenues or taxes up to the respective days whereupon such debenture or debentures shall be so paid; Provided always, that no such Receiver General, Collectors and Receivers as aforesaid shall be accountable for the interest on any such debenture so by them or either of them received, for and during the time during which such debenture shall remain in their hands. And to the end that it may be known for what time such debentures bearing interest shall, from time to time, remain in the hands of such Collectors and Receivers as aforesaid, Be it enacted, That the person or persons who shall pay any such debenture or debentures so bearing interest, to the Collectors and Receivers of any of Her Majesty's revenues or taxes shall, at the time of making such payment, put his, her or their name or names and write thereupon in words at length, the day of the month and year in which he, she

she or they paid such debenture bearing interest; all which the said Collectors and Receivers shall respectively take care to see done and performed accordingly, and to which respective days the said Receivers and Collectors shall be allowed again the interest which he or they shall have allowed or paid, upon such respective debenture upon his or their paying the same into the hands of the Receiver General as aforesaid.

VI. And be it enacted, That the interest growing due upon the said debentures shall and may be demandable in half-yearly periods, computing from the date thereof, and shall and may be paid on demand by the Receiver General of this Province for the time being, who shall take care to have the same indorsed on each debenture at the time of payment thereof, expressing the period up to which the said interest shall have been paid, and shall take receipts for the same from the parties respectively; and that it shall be lawful for the Governor to issue his Warrants to the said Receiver General, for the payment of the amount of interest that shall have been advanced according to the receipts to be by him taken as aforesaid, and that a separate Warrant shall be made to the Receiver General by the Governor, for the payment of each debenture as the same may become due and be presented, in favor of the lawful holder thereof, and that such debentures as shall, from time to time, be discharged and paid off, shall be cancelled and made void by the said Receiver General.

Interest may be demandable in half-yearly periods, and how payable.

VII. And be it enacted, That at any time after the said debentures or any of them shall respectively become due according to the terms thereof, it shall and may be lawful for the Governor, if he think proper so to do, to direct a notice to be inserted in the Canada Gazette, requiring all holders of the said debentures to present the same for payment according to this Act; and if (after insertion of the said notice for three months) any debentures then payable shall remain out more than six months from the first publication of such notice, all interest on such debentures after the expiration of the said six months shall cease and be no further payable, in respect to the time which may elapse between the expiration of the said six months and their presentment for payment.

When debentures have become due, Governor may require holders thereof to present the same for payment, failing which interest shall cease to accrue.

VIII. And be it enacted, That it shall and may be lawful for the Governor to appoint two or more Commissioners, but not exceeding three, for advancing and lending sums of money under the provisions of this Act, upon the securities and under the terms and conditions, and subject to the regulations in this Act mentioned; and in case of the death, removal or refusal or incapacity to act of any of the Commissioners for the execution of this Act, it shall and may be lawful for the said Governor to appoint some other person or persons to be Commissioner or Commissioners to act in the execution of this Act.

Governor may appoint Commissioners for advancing sums of money under this Act.

IX. And be it enacted, That the said Commissioners, before they shall enter upon the execution of this Act, shall take an oath before any Justice of the Court of Queen's Bench, (which oath the said Justice is hereby authorized and required to administer,) the tenor whereof shall be as follows, that is to say: "I, A. B. do swear, that, according to the best of my judgment, I will faithfully and impartially execute the several powers and trusts vested in me by an Act, intituled, *An Act for enabling Her Majesty to direct the issue of debentures to a limited amount and for giving relief to the City of Quebec*, according to the tenor and purport of the said Act."

Commissioners to take an oath of office.

The oath.

Commissioners may meet from time to time, and employ clerks, &c.

X. And be it enacted, That the said Commissioners may meet and sit from time to time in such place and places as they shall find most convenient with or without adjournment, and with the consent of the Governor in Council may, if deemed necessary, appoint one Secretary and employ one or more Clerks, and allow to each a reasonable salary or reward, and shall and may give and administer to such Secretary and Clerks an oath for their faithful demeanor in all things relating to the due performance of the trusts reposed in them by the said Commissioners, and in all other things touching the premises, and may from time to time, at their discretion, dismiss and discharge such Clerks and appoint others in their place ; and the said Secretary and Clerks are hereby required faithfully to execute and perform the said trusts in them severally and respectively reposed, without taking any thing for such service other than such salaries or rewards, as the Governor in Council shall direct or appoint in manner aforesaid.

Two Commissioners may perform all acts, &c., hereby authorized.

XI. And be it enacted, That all acts, matters and things which the said Commissioners for the execution of this Act are by this Act authorized to do or execute, may be done and executed by any two of such Commissioners.

Receiver General to advance money, in proportions authorized by Governor in Council, to the parties to whom loans shall be granted by the Commissioners.

XII. And be it enacted, That the Receiver General is hereby authorized and required to issue and cause to be advanced all such sums of money to such person or persons, in such manner and in such proportions as the said Commissioners appointed by this Act shall with the consent of the Governor in Council from time to time direct out of the Consolidated Revenue Fund—which sums so to be issued and advanced shall be employed for the payment of allowances and in defraying all other necessary charges and expenses in or about the execution of this Act ; and that the account of the said charges and expenses shall be laid before both Houses of the Legislature within fifteen days after the expiration of the Commission.

Commissioners to meet to receive and consider applications from sufferers.

XIII. And be it enacted, That after this Act shall have received the Royal Assent, the said Commissioners who shall have taken the said oath as aforesaid, shall meet to receive all such applications in writing as shall be made to them from persons who have sustained losses by the disastrous fires of the twenty-eighth day of May and the twenty-eighth day of June, one thousand eight hundred and forty-five, and are desirous of obtaining loans and advances of money for the purpose of rebuilding their houses and other buildings destroyed by the said fires and for no other ; and shall also then fix and appoint days for taking into their consideration all such applications, and shall meet together for that purpose, and shall proceed with all convenient dispatch to ascertain the amount of the sums which, in their judgment, will be immediately requisite to be advanced under the Act in pursuance of applications then delivered.

Commissioners may examine parties and witnesses on oath.

XIV. And be it enacted, That the said Commissioners may examine upon oath or affirmation (which oath or affirmation they or any one or more of them are and is hereby authorized to administer,) all persons who shall be willing to be examined touching all such matters and things as shall be necessary for the execution of the powers vested in the said Commissioners by this Act, and may also receive any affidavits or depositions in writing upon oath or affirmation touching such matters or things as aforesaid, which shall be made before any Justice of the Peace in and for the District of Quebec, or before any Justice of the Court of Queen's Bench ; Provided that, in every such affidavit or deposition there shall be expressed the addition of the party making such affidavit or deposition and the particular place of his or her abode.

Proviso.

XV.

XV. And be it enacted, That if any person or persons upon examination upon oath or affirmation before the said Commissioners, respectively, or if any person or persons making any such affidavit or deposition as before mentioned, shall wilfully and corruptly give false evidence, or shall on such affidavit or deposition wilfully and corruptly swear, affirm or allege any matter or thing which shall be false and untrue, every such person and persons so offending and being thereof duly convicted, shall be and is and are hereby declared to be subject and liable to the pains and penalties imposed on persons convicted of wilful and corrupt perjury by any law in force at the time of such perjury being committed.

Persons swearing falsely, liable to penalties imposed for perjury.

XVI. And be it enacted, That the said Commissioners shall, before any apportionment of such monies to such owners of property or persons interested as aforesaid shall be made, cause the applications to be classed according to the amount of the sums respectively applied for, and the nature of the securities tendered, and the circumstances under which applications shall be made, as far as the same shall appear upon the said applications, and thereupon shall draw up and establish such general rules and regulations for their own government in the apportioning and distributing the sums to be advanced and lent under this Act to the several parties applying for the same, as they in their discretion shall deem equitable and just ; all which rules and regulations shall, within a convenient time, be entered in a book or books to be prepared and kept by such Commissioners for that purpose ; and the said Commissioners appointed by this Act, according to the true purport and meaning of such general rules and regulations as aforesaid, shall proceed to take into their consideration all such applications which shall specify the particulars of the injuries sustained and of the sums required to be advanced as aforesaid, not being in any case less than the sum of fifty pounds, and which shall tender any security, privilege and mortgage (*hypothèque*), which the said Commissioners are authorized by this Act to take for payment of the sums to be advanced, and which shall also specify the nature and amount thereof, and from time to time in inquiring into the same respectively, shall determine what persons shall, in their judgment, be entitled to any part of the monies to be advanced or lent under this Act and to what amount, and shall ascertain the nature and amount of the securities or the nature and sufficiency of the privilege and mortgage (*hypothèque*) to be required from them for the same respectively.

Applications to be classed by the Commissioners according to amount of sums applied for, &c.

Commissioners to adopt general rules for their guidance.

Commissioners to consider and decide upon applications made with tender of the requisite security, and determine to whom loans shall be made, &c.

XVII. And be it enacted, That the Commissioners shall deliver to all persons to whom any of the said monies shall be apportioned as aforesaid by the said Commissioners, a certificate or certificates under the hands and seals of two or more of such Commissioners, specifying the amount of the sum to be advanced and lent, to be respectively numbered and marked in the course and order in which the same shall be delivered, which certificate or certificates being deposited with the Receiver General or with any person or persons, bodies corporate or politic, whom the said Receiver General may authorize, shall be a sufficient authority, without other Warrant, to such Receiver General, to deliver such sum or sums of money as shall be described in any of the said certificate or certificates of such Commissioners.

Commissioners to deliver certificate specifying the amount to be advanced, which shall accordingly be paid by the Receiver General.

XVIII. And be it enacted, That the persons to whom or for whose use any such sums of money shall be applied for, and advanced and lent, shall previously enter into such notarial bonds or obligations in such sum or sums of money, respectively, and give such privileges and mortgages (*hypothèques*) upon the properties for which advances shall

Persons for whose use a sum of money shall be applied for, shall previously

ly grant *hypothèques* upon properties for the improvement of which advances shall be applied for.

Effect of such *hypothèques*.

Proviso: to what the priority of privilege shall extend.

Registration not to be requisite to secure the *hypothec*, &c.

Buildings, &c. constructed on the property subsequent to execution of bonds, to be presumed to have been erected out of monies lent under this Act.

Proviso: the contrary may be proved.

Commissioners may exact

shall be applied for, as the said Commissioners shall require; and in case the Commissioners shall not think such properties and the mortgages or privileges which the parties applying are able to enter into as to such properties, a sufficient security for the advance applied for, then with such notarial bond or obligation in such sum or sums of money respectively and with such sureties, as the case may in the judgment of the said Commissioners require, which mortgages (*hypothèques*), privileges, bonds, obligations and security the said Commissioners shall cause to be taken; and every mortgage (*hypothèque*), privilege, bond and obligation to be taken in pursuance of this Act, as well of the principal parties as of such sureties respectively, (if such sureties be deemed necessary) shall be to Our Sovereign Lady the Queen, in such sum or sums of money as shall be directed by such Commissioners by virtue of this Act, to be paid to Our said Lady the Queen, and with such conditions to be therein mentioned or thereunder written as by the said Commissioners shall be deemed within the meaning of this Act; and that all such mortgages, (*hypothèques*), privileges, securities, bonds or obligations to be so made, shall be good and effectual in law, and shall be of the same quality, force and effect, to all intents and purposes, as any obligation made to Our Sovereign Lady the now Queen or Her Predecessors, or any of them, has at any time heretofore been or now is adjudged, received or taken to be, and shall have priority of privilege over all other privileges or other securities charged or chargeable upon or affecting properties for the restoration of which advances of money under this Act shall be made; Provided always, that the priority of privilege above mentioned shall be understood to mean a priority of privilege over all mortgages (*hypothèques*) and over all other privileges whatsoever upon the value of the buildings to be erected, and the increased value of the lot or lots of ground by reason of such buildings having been erected thereon, and other improvements having been made upon the said properties by means of the sums of money to be advanced and lent under this Act, together with the general mortgage (*hypothèque générale*) which shall attach on the lot of ground and other immoveable property of the person or persons to whom such sums of money shall be advanced and lent, and of which such person or persons shall be then possessed, or shall thereafter become possessed, and which said mortgage shall take its rank from the date of the bond or obligation to be entered into by such person or persons; and that, in order to secure to Her Majesty, Her Heirs and Successors, all the rights, privileges, mortgages (*hypothèques*) herein above mentioned, it shall not in anywise be necessary to comply with any of the provisions of the Registry Laws of Lower Canada, nor with any other law or laws prescribing any conditions, forms or formalities other than those prescribed by this Act.

XIX. And be it enacted, That any buildings or improvement which may be erected and made on any property subsequently to the execution of any bonds or obligations by which any sum or sums of money shall have been advanced and lent for the improvement of such property under this Act, shall be presumed to have been erected and made out of the monies so advanced or lent under this Act; any law, usage or custom to the contrary notwithstanding; Provided always, that it shall be lawful for any party or parties who shall pretend that such property was built upon and improved out of funds other than those mentioned in this Act, to prove the truth of his or their allegation in this respect by such documents or other legal evidence as the law requires.

XX. And be it enacted, That it shall be lawful for the said Commissioners or any two of them, to exact one or more sureties from any applicant or applicants for any sum

sum or sums of money under this Act, whenever they may have cause to apprehend that such applicant or applicants may not apply the said sum or sums of money to the purposes intended by this Act; and such surety or sureties shall only be responsible for the due application of such sum or sums of money and no more; and it shall also be lawful, for the said Commissioners or any two of them in like cases whenever they shall see fit, to advance and lend any sum or sums of money under this Act upon the express condition that the said sum or sums of money shall remain in their hands, to be paid over to any person or persons who shall or may undertake to build such property, as the work progresses, and the said Commissioners are hereby authorized to deliver to the said person or persons, his or their legal representatives, a certificate or certificates specifying the amount of the sum to be paid to such person or persons and the consideration for which the same is paid, and which certificate or certificates being in other respects made similar to other certificates mentioned in a previous clause of this Act, shall have the same force and effect as the said certificates, and the divers sums therein mentioned shall be paid in the manner herein-above provided in relation to such certificates; and it is hereby enacted, that a certified copy of such certificate or certificates under the hand and seal of any person or persons, bodies politic or corporate, by whom the sums of money therein mentioned shall be made payable, shall in all cases and by all Judges and other persons be deemed alone sufficient proof of the legal payment of the divers sums of money therein specified, without production of any evidence of the hand writing, signature or seal of such person or persons, bodies politic or corporate; any law, usage or custom to the contrary notwithstanding.

sureties for the due application of the sum lent.

Advances may be made as the work progresses.

Certificates to be given by the Commissioners to the parties. What shall be evidence of payment of the money to such parties.

XXI. And be it enacted, That it shall be lawful for the said Commissioners or for any two of them, and they are hereby required to insert or cause to be inserted in such bonds or obligations, a clause to the effect that the person or persons to whom such sum or sums of money are to be advanced and lent under this Act, shall build with stones or bricks, and shall cover the roofs of the buildings to be erected under this Act with such incombustible materials, as the said Commissioners or any two of them may direct, under such penalty in case of violation of such condition, as may be inserted in the bonds or obligations; and that it shall be lawful for the said Commissioners to require one or more sureties from such person or persons for the due performance of such conditions, whenever they shall have good and sufficient cause to apprehend a violation of the same.

A clause may be inserted in bonds obliging the building in stone or brick, &c.

XXII. And be it enacted, That it shall also be lawful for the said Commissioners, and they are hereby required, so long as the principal sums to be loaned under this Act, and the interest to accrue thereon, shall remain unpaid, to cause an insurance to be effected and to be annually renewed in proportion to the sums remaining due, on all and every the buildings, to be erected under this Act, which insurance or sums due under the same respectively, shall in case of the destruction of the said buildings, by fire, be payable to Her Majesty, Her Heirs and Successors by the underwriters thereof; and to insert or cause to be inserted in the bonds or applications to be entered into by any person or persons to whom any sum or sums of money may be advanced and lent under this Act, a clause or clauses to the effect that such person or persons shall bind himself or themselves to reimburse to Her Majesty whatever sum of money or rate of insurance may hereafter be paid by such Commissioners for effecting such insurance, and at the same period at which such rate of insurance is made payable by the respective policies.

Insurance to be effected on buildings to be erected and on the security of which money shall be advanced under this Act.

Principal sums to be repaid without deduction to Receiver General, or party by him authorized to receive the sum, in not more than ten years.

Proviso. Commissioners may stipulate for payment by instalments. Proceeding if the sum lent be not duly repaid.

Crown Officer to bring suit.

After payment of sums advanced a discharge may be granted in full.

Receipts for partial payments or interest.

Provisions when principal debtors or their sureties shall become bankrupts.

XXIII. And be it enacted, That the principal sums of money which shall be awarded and lent by the said Commissioners under the authority of this Act, shall be repaid, without deduction or abatement, to the Receiver General of the Province, or to any person or persons, or to any body corporate or politic authorized by the said Receiver General to receive the same, at or previously to the expiration of ten years from the time of every such loan being advanced, with interest for the same in the meantime, to be computed at and after the rate of three pounds per centum per annum from the day of the advance, but the payment of such interest to commence at the end of one year from the time of every such loan being advanced, and to be thenceforward made at the expiration of every year until such principal sums shall be repaid: Provided always, that it shall be lawful for the said Commissioners and they are hereby required to stipulate, in the said bonds or obligations, that the payment of the sums of money advanced or lent as aforesaid, be made in ten equal yearly instalments, if the person or persons to whom the sums are advanced or lent so desire it; and if any default shall be made by any person or persons in the payment of any sum or sums of money within the respective times hereinbefore limited for payment thereof, according to the true intent and meaning of this Act, it shall and may be lawful for the said Commissioners hereby appointed or any two or more of them, and they are hereby required, without further delay, to transmit from time to time to the proper Law Officer or Officers of the Crown all bonds, obligations, and other securities due by persons to whom any sums of money have been advanced and lent as aforesaid; and that it shall be the duty of such Law Officer or Officers of the Crown presently to proceed against all or any of the persons who shall have entered into any bonds or obligations to Her Majesty, for the sum advanced, his, her and their heirs, executors and administrators, for the recovery of such parts of the sums advanced on such bonds or obligations as shall be then due, together with interest as aforesaid, and such costs and charges attending such proceedings as are by law in private cases payable for the same; and the sums so recovered (the costs and charges aforesaid excepted) shall be paid to the said Receiver General, or to any person or persons, or to any Bank by him authorized to receive the same, without abatement, deduction or delay, in satisfaction of such demands.

XXIV. And be it enacted, That after due payment of the sums advanced, with interest as aforesaid, at the time and in the manner herein specified, every such bond or obligation being fully satisfied according to the true intent and meaning of this Act, it shall be the duty of one of the Law Officers of the Crown, or any other person whom the Governor of this Province may appoint for that purpose, to grant a discharge in full to any person who shall have effected such payments, upon the production by such person of a certificate to that effect from the Receiver General, or any person or persons, bodies politic or corporate by him duly authorized to receive such payments; and that receipts for partial payments in instalments, and annual interest as directed by this Act, shall also be granted in the manner prescribed for granting discharges in full.

XXV. And be it enacted, That every bond or obligation entered into or given by any person or persons, either as principal or surety, who shall afterwards become bankrupt, within the true intent and meaning of the Statute made and now in force or which shall hereafter be made and be in force concerning Bankrupts, and against whom a Commission of Bankruptcy shall be awarded and issued out, shall by reason and force of such Bankruptcy and from the time of such Bankruptcy become and be forfeited and due and payable as against such Bankrupt or Bankrupts, and all the estate and effects of

of such Bankrupt or Bankrupts, which would be liable to satisfy the demands of the creditors seeking relief under such Commission of Bankruptcy, shall be liable and subject to, and are hereby made chargeable with the payment of the principal and interest due upon such bond or obligation, and all costs attending the recovery of the same, and that the claims of Her Majesty by virtue of this Act, shall be first paid and satisfied out of the personal estate and effects of such Bankrupt or Bankrupts, and in preference to the claim of any other creditor or creditors, and that such claims shall also be first paid and satisfied out of the value of the improvements made on the real estate or immoveable property, and of the increased value of such real estate or immoveable property, by means of the sum or sums of money advanced and lent as aforesaid, in preference to the claims of any other creditor or creditors; and it shall be lawful for the proper Law Officer of the Crown, in the name of Her Majesty, to apply by Petition in a summary way to the proper Courts having the jurisdiction of the matter of such Commission of Bankruptcy, to make due order accordingly, which such Courts respectively are hereby authorized and required to make; and that it shall also be lawful for one of the Commissioners to be appointed by this Act, or for one of the Law Officers of the Crown, or any other person whom the Governor of this Province may authorize for that purpose, to prove any debt or grounds of debt, under this Act, and vote in the choice of an Assignee or Assignees, Trustee or Trustees, as the case may require, of such Bankrupt's estate and effects, and to do and execute every other matter and thing, relating to such Bankruptcy, as fully and effectually as if such Commissioner, or other person, were the *bonâ fide* creditor of such Bankrupt or Bankrupts.

Privilege of
the Crown in
such case.

Crown Offi-
cer may prove
debt, &c.

XXVI. And be it enacted, That so soon as the whole sum of one hundred thousand pounds, by this Act authorized to be issued and applied under the provisions of this Act, shall have been advanced and lent by the said Commissioners for the execution of this Act, or whenever the Governor in Council shall think fit to declare that the powers of the said Commissioners for the execution of this Act, may, without injury to any principals or sureties, or other persons interested in the properties for which advances have been made, or in any securities given in relation thereto, or for any other just and reasonable cause, cease and determine, the Provincial Secretary is hereby authorized to direct the said Commissioners, who are thereupon hereby authorized and required to publish and declare, by advertisements to be inserted in the Canada Gazette, and two newspapers published in the City of Quebec, in the English and French languages, that at the expiration of three calendar months from the date of the said advertisements respectively, the said Commissioners for the execution of this Act, will cease to execute and perform the powers and authorities vested in them by this Act, and all the powers and authorities of the said Commissioners for the execution of this Act, shall thereupon cease and determine accordingly; and the said Commissioners shall with all convenient speed, lay an account in writing of all the proceedings under this Act, before both Houses of Parliament, and shall also deliver or cause to be delivered up to the Inspector General of Public Provincial Accounts, all the bonds, obligations, deeds, books of account, papers and writings of what nature or kind soever, in the possession, or under the control of the said Commissioners, or any of their Officers, touching or relating to any security or securities whatsoever taken by them, the said Commissioners for any loan or loans advanced by them under the powers and authority of this Act, together with the minutes of the proceedings of them the said Commissioners, and all books, papers and writings in any manner relating thereto.

When the
whole of the
£100,000
shall have
been advanced,
or the Go-
vernor shall
deem it expe-
dient, powers
of Commis-
sioners to
cease and de-
termine.

Notice to be
given.

Commission-
ers to report to
the Legisla-
ture, and to
deliver ac-
counts, &c., to
the Inspector
General.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. LXI.

An Act to authorize the issue of Debentures for the erection of a Lunatic Asylum at Toronto.

[9th June, 1846.]

WHEREAS it is expedient to make further provision for erecting and furnishing the Lunatic Asylum at the City of Toronto: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That there be granted to Her Majesty a sum not exceeding thirty thousand pounds, currency, to be raised by Debentures in the manner hereinafter mentioned, to enable Her Majesty to defray the expense of erecting and furnishing the Lunatic Asylum at the City of Toronto now in progress, and to be applied to that purpose under such regulations as the Governor in Council shall from time to time direct and appoint, for the guidance of the Commissioners appointed or to be appointed, according to the Statute of Upper Canada, in that behalf made and provided.

Preamble.

£30,000 granted, to be raised by Debentures, for completing the Lunatic Asylum at Toronto.

II. And be it enacted, That for the purpose of raising such sum as aforesaid, it shall be lawful for the Governor in Council to authorize the issue of Debentures to an amount not exceeding the said sum, in such form, and for such separate sums, and redeemable respectively at such times, as may be found most convenient, bearing interest at a rate not exceeding six *per centum* per annum; the principal and interest of the said Debentures not being chargeable upon the Consolidated Revenue Fund of this Province, but being payable out of the proceeds of the rate or tax of one-eighth of a penny in the pound imposed by the Act of the Legislature of Upper Canada, passed in the second year of Her Majesty's Reign, and intituled, *An Act to authorize the erection of an Asylum in this Province, for the reception of Insane and Lunatic Persons*, as the same shall come into the hands of the Receiver General,—the proceeds of which said rate or tax are hereby specially appropriated to the payment of the said principal and interest.

Mode of raising such sum and out of what monies it shall be repaid.

Act of U. C. 2 Vict. c. 11, cited.

III. And be it enacted, That if any person or persons shall forge or counterfeit any Debenture to be issued under the authority of this Act, or any stamp, indorsement

Penalty on persons counterfeiting Debentures, &c.
OR

or writing thereon or therein, or shall demand to have such counterfeit Debenture, or any Debenture with such counterfeit writing or other indorsement thereon or therein, to be exchanged for money by any person or persons who shall be obliged or required to exchange the same or by any other person or persons whomsoever, knowing the Debenture so tendered or the indorsement or writing thereon or therein to be so forged or counterfeited, with intent to defraud Her Majesty, Her Heirs and Successors, or the person appointed to pay the same or any of them, or any other person or persons, body or bodies politic or corporate, then every person so offending being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer such punishment as shall be adjudged in that behalf, not exceeding imprisonment at hard labour in the Provincial Penitentiary for seven years.

Governor may
by Proclama-
tion call in
any of the
Debentures.

IV. And be it enacted, That it shall and may be lawful for the Governor of this Province at any time by Proclamation to call in any of the said Debentures, although the time therein named for the payment thereof may not have arrived, in order that the same may be paid off; and that at the expiration of six months from the date of such Proclamation, all interest on the Debentures called in for payment as aforesaid shall cease.

Accounts to
be laid before
the Legisla-
ture at each
Session.

V. And be it enacted, That accounts in detail of all monies received and paid, and of the Debentures issued and the interest thereon, and of the redemption of the whole or any part of such Debentures, and of all expenses attending the collection and payment of the sums of money collected, received or paid by authority of this Act, shall be laid before the Legislature of this Province at each Session thereof.

Accounting
clause.

VI. And be it enacted, That the due application of the monies so to be raised shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall be graciously pleased to direct.

Interpretation
clause.

VII. And be it enacted, That the words "Governor in Council," whenever they occur in this Act, shall be construed to mean the Governor, Lieutenant Governor, or person administering the Government of this Province, acting by and with the advice of the Executive Council thereof.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXII.

An Act for enabling Her Majesty to direct the issue of Debentures to a limited amount, and for giving relief to the City of Quebec.

[9th June, 1846.]

MOST GRACIOUS SOVEREIGN :

WHEREAS in consideration of the heavy losses which have been sustained in the City of Quebec, in consequence of the great destruction of property by fire, it is expedient that Your Majesty's Governor General, Lieutenant Governor, or person administering the government of this Province, be authorized to raise by a loan the sum of one hundred thousand pounds, currency, to be issued to Commissioners, to be by them advanced, under certain regulations and restrictions, for the assistance and accommodation of the said City of Quebec and of such persons having property therein and connected therewith as shall be desirous of receiving the same for the purpose of rebuilding, on due security being given for the repayment of the sums so advanced within a time to be limited : May it therefore please Your Majesty, That it may be enacted, and Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the government of this Province, to authorize and direct Her Majesty's Receiver General of this Province to raise by loan from any person or persons, bodies corporate or politic who may be willing to advance, upon the credit of the Government bills or debentures authorized to be issued under this Act, the said sum of one hundred thousand pounds, currency, and that as soon as the said sum of one hundred thousand pounds, currency, or any part thereof, shall be so raised, it shall and may be lawful for the Governor to issue his Warrant upon the said Receiver General for the same, in favour of the said Commissioners, to be by them advanced and lent upon the terms and conditions hereinafter provided respecting the same.

Preamble.

Governor may authorize Receiver General to raise a sum of £100,000 currency, by Government debentures.

II. And be it enacted, That it shall and may be lawful for the Receiver General for the time being, to cause and direct any number of debentures to be made out for any such sum or sums of money, not exceeding in the whole the said sum of one hundred thousand pounds, as any person or persons, bodies corporate or politic shall agree to advance

Receiver General may issue debentures for any sum not more than £100,000 currency, at a rate

ON

of interest not exceeding 5 per cent.

on the credit of the said debentures, which debentures shall be prepared and made out in such method and form as Her Majesty's Receiver General shall think most safe and convenient, and be signed by him, and shall be made payable at such period and for such sums and at such rate of interest not exceeding five pounds per centum per annum as shall be found most advisable.

Proviso : debentures to be taken in payment by the Receiver General, Collectors of Customs, &c., after they are due.

III. Provided always, and be it enacted, That the said debentures to be made out by virtue of this Act, or so many of them as shall, from time to time, remain undischarged and uncanceled after the respective days on which they shall become due and payable, shall after that time pass and be current to all and every the Collectors and Receivers in this Province, of the Customs or any revenue or tax whatsoever already granted, due or payable, or which shall or may hereafter be granted, due or payable to Her Majesty, Her Heirs and Successors under and by virtue of any Act of the Parliament of this Province, or of either of the former Provinces of Lower and Upper Canada, and also at the office of the Receiver General of this Province from the said Collectors and Receivers, or from any other person or persons, bodies politic or corporate whatsoever, making any payments whatever then to Her Majesty, Her Heirs and Successors, for and upon any account, cause or occasion whatsoever; and that the same, in the hands of such Collectors and Receivers and in the hands of the Receiver General of this Province, shall be deemed and taken as cash, and as such shall be charged against and credited to such Collectors and Receivers and to such Receiver General as aforesaid respectively, in their respective accounts with each other, and with Her Majesty, Her Heirs and Successors; but no such Collector or Receiver shall exchange at any time before the day of payment thereof for any money of such revenue, aid, or taxes in his hands, any debentures which shall have issued as aforesaid by virtue of this Act, nor shall any action be maintained against any such Collector or Receiver for neglecting or refusing to exchange any such debenture for ready money before the day of payment thereof; any thing in this Act to the contrary notwithstanding.

Proviso : debentures not to be so taken until due.

All debentures to be chargeable on Consolidated Revenue Fund.

IV. And be it enacted, That all debentures made out and issued in pursuance and for the purposes of this Act, together with the interest thereon, to be computed from the day of the date of such debentures, respectively, until the time of payment thereof, shall be chargeable on the Consolidated Revenue Fund of this Province.

Interest due on debentures to be allowed to persons, &c., paying the same to the Receiver General, Collectors, &c.

Proviso : Public Officers not chargeable with interest on debentures while in their hands.

Provided certain particulars to be indorsed on debentures when paid to them.

V. And be it enacted, That the interest which, from time to time, shall be due upon any such debentures as aforesaid, shall be allowed to all persons, bodies politic and corporate paying the same to the Receiver General of this Province, or to any Collector or Receiver of any of Her Majesty's Customs, revenues or taxes up to the respective days whereupon such debenture or debentures shall be so paid; Provided always, that no such Receiver General, Collectors and Receivers as aforesaid shall be accountable for the interest on any such debenture so by them or either of them received, for and during the time during which such debenture shall remain in their hands. And to the end that it may be known for what time such debentures bearing interest shall, from time to time, remain in the hands of such Collectors and Receivers as aforesaid, Be it enacted, That the person or persons who shall pay any such debenture or debentures so bearing interest, to the Collectors and Receivers of any of Her Majesty's revenues or taxes shall, at the time of making such payment, put his, her or their name or names and write thereupon in words at length, the day of the month and year in which he, she

she or they paid such debenture bearing interest; all which the said Collectors and Receivers shall respectively take care to see done and performed accordingly, and to which respective days the said Receivers and Collectors shall be allowed again the interest which he or they shall have allowed or paid, upon such respective debenture upon his or their paying the same into the hands of the Receiver General as aforesaid.

VI. And be it enacted, That the interest growing due upon the said debentures shall and may be demandable in half-yearly periods, computing from the date thereof, and shall and may be paid on demand by the Receiver General of this Province for the time being, who shall take care to have the same indorsed on each debenture at the time of payment thereof, expressing the period up to which the said interest shall have been paid, and shall take receipts for the same from the parties respectively; and that it shall be lawful for the Governor to issue his Warrants to the said Receiver General, for the payment of the amount of interest that shall have been advanced according to the receipts to be by him taken as aforesaid, and that a separate Warrant shall be made to the Receiver General by the Governor, for the payment of each debenture as the same may become due and be presented, in favor of the lawful holder thereof, and that such debentures as shall, from time to time, be discharged and paid off, shall be cancelled and made void by the said Receiver General.

Interest may be demandable in half-yearly periods, and how payable.

VII. And be it enacted, That at any time after the said debentures or any of them shall respectively become due according to the terms thereof, it shall and may be lawful for the Governor, if he think proper so to do, to direct a notice to be inserted in the Canada Gazette, requiring all holders of the said debentures to present the same for payment according to this Act; and if (after insertion of the said notice for three months) any debentures then payable shall remain out more than six months from the first publication of such notice, all interest on such debentures after the expiration of the said six months shall cease and be no further payable, in respect to the time which may elapse between the expiration of the said six months and their presentment for payment.

When debentures have become due, Governor may require holders thereof to present the same for payment, failing which interest shall cease to accrue.

VIII. And be it enacted, That it shall and may be lawful for the Governor to appoint two or more Commissioners, but not exceeding three, for advancing and lending sums of money under the provisions of this Act, upon the securities and under the terms and conditions, and subject to the regulations in this Act mentioned; and in case of the death, removal or refusal or incapacity to act of any of the Commissioners for the execution of this Act, it shall and may be lawful for the said Governor to appoint some other person or persons to be Commissioner or Commissioners to act in the execution of this Act.

Governor may appoint Commissioners for advancing sums of money under this Act.

IX. And be it enacted, That the said Commissioners, before they shall enter upon the execution of this Act, shall take an oath before any Justice of the Court of Queen's Bench, (which oath the said Justice is hereby authorized and required to administer,) the tenor whereof shall be as follows, that is to say: "I, A. B. do swear, that, according to the best of my judgment, I will faithfully and impartially execute the several powers and trusts vested in me by an Act, intituled, *An Act for enabling Her Majesty to direct the issue of debentures to a limited amount and for giving relief to the City of Quebec*, according to the tenor and purport of the said Act."

Commissioners to take an oath of office.

The oath.

Commissioners may meet from time to time, and employ clerks, &c.

X. And be it enacted, That the said Commissioners may meet and sit from time to time in such place and places as they shall find most convenient with or without adjournment, and with the consent of the Governor in Council may, if deemed necessary, appoint one Secretary and employ one or more Clerks, and allow to each a reasonable salary or reward, and shall and may give and administer to such Secretary and Clerks an oath for their faithful demeanor in all things relating to the due performance of the trusts reposed in them by the said Commissioners, and in all other things touching the premises, and may from time to time, at their discretion, dismiss and discharge such Clerks and appoint others in their place ; and the said Secretary and Clerks are hereby required faithfully to execute and perform the said trusts in them severally and respectively reposed, without taking any thing for such service other than such salaries or rewards, as the Governor in Council shall direct or appoint in manner aforesaid.

Two Commissioners may perform all acts, &c., hereby authorized

XI. And be it enacted, That all acts, matters and things which the said Commissioners for the execution of this Act are by this Act authorized to do or execute, may be done and executed by any two of such Commissioners.

Receiver General to advance money, in proportions authorized by Governor in Council, to the parties to whom loans shall be granted by the Commissioners.

XII. And be it enacted, That the Receiver General is hereby authorized and required to issue and cause to be advanced all such sums of money to such person or persons, in such manner and in such proportions as the said Commissioners appointed by this Act shall with the consent of the Governor in Council from time to time direct out of the Consolidated Revenue Fund—which sums so to be issued and advanced shall be employed for the payment of allowances and in defraying all other necessary charges and expenses in or about the execution of this Act ; and that the account of the said charges and expenses shall be laid before both Houses of the Legislature within fifteen days after the expiration of the Commission.

Commissioners to meet to receive and consider applications from sufferers.

XIII. And be it enacted, That after this Act shall have received the Royal Assent, the said Commissioners who shall have taken the said oath as aforesaid, shall meet to receive all such applications in writing as shall be made to them from persons who have sustained losses by the disastrous fires of the twenty-eighth day of May and the twenty-eighth day of June, one thousand eight hundred and forty-five, and are desirous of obtaining loans and advances of money for the purpose of rebuilding their houses and other buildings destroyed by the said fires and for no other ; and shall also then fix and appoint days for taking into their consideration all such applications, and shall meet together for that purpose, and shall proceed with all convenient dispatch to ascertain the amount of the sums which, in their judgment, will be immediately requisite to be advanced under the Act in pursuance of applications then delivered.

Commissioners may examine parties and witnesses on oath.

XIV. And be it enacted, That the said Commissioners may examine upon oath or affirmation (which oath or affirmation they or any one or more of them are and is hereby authorized to administer,) all persons who shall be willing to be examined touching all such matters and things as shall be necessary for the execution of the powers vested in the said Commissioners by this Act, and may also receive any affidavits or depositions in writing upon oath or affirmation touching such matters or things as aforesaid, which shall be made before any Justice of the Peace in and for the District of Quebec, or before any Justice of the Court of Queen's Bench ; Provided that, in every such affidavit or deposition there shall be expressed the addition of the party making such affidavit or deposition and the particular place of his or her abode.

Proviso.

XV.

XV. And be it enacted, That if any person or persons upon examination upon oath or affirmation before the said Commissioners, respectively, or if any person or persons making any such affidavit or deposition as before mentioned, shall wilfully and corruptly give false evidence, or shall on such affidavit or deposition wilfully and corruptly swear, affirm or allege any matter or thing which shall be false and untrue, every such person and persons so offending and being thereof duly convicted, shall be and is and are hereby declared to be subject and liable to the pains and penalties imposed on persons convicted of wilful and corrupt perjury by any law in force at the time of such perjury being committed.

Persons swearing falsely, liable to penalties imposed for perjury.

XVI. And be it enacted, That the said Commissioners shall, before any apportionment of such monies to such owners of property or persons interested as aforesaid shall be made, cause the applications to be classed according to the amount of the sums respectively applied for, and the nature of the securities tendered, and the circumstances under which applications shall be made, as far as the same shall appear upon the said applications, and thereupon shall draw up and establish such general rules and regulations for their own government in the apportioning and distributing the sums to be advanced and lent under this Act to the several parties applying for the same, as they in their discretion shall deem equitable and just ; all which rules and regulations shall, within a convenient time, be entered in a book or books to be prepared and kept by such Commissioners for that purpose ; and the said Commissioners appointed by this Act, according to the true purport and meaning of such general rules and regulations as aforesaid, shall proceed to take into their consideration all such applications which shall specify the particulars of the injuries sustained and of the sums required to be advanced as aforesaid, not being in any case less than the sum of fifty pounds, and which shall tender any security, privilege and mortgage (*hypothèque*), which the said Commissioners are authorized by this Act to take for payment of the sums to be advanced, and which shall also specify the nature and amount thereof, and from time to time in inquiring into the same respectively, shall determine what persons shall, in their judgment, be entitled to any part of the monies to be advanced or lent under this Act and to what amount, and shall ascertain the nature and amount of the securities or the nature and sufficiency of the privilege and mortgage (*hypothèque*) to be required from them for the same respectively.

Applications to be classed by the Commissioners according to amount of sums applied for, &c.

Commissioners to adopt general rules for their guidance.

Commissioners to consider and decide upon applications made with tender of the requisite security, and determine to whom loans shall be made, &c.

XVII. And be it enacted, That the Commissioners shall deliver to all persons to whom any of the said monies shall be apportioned as aforesaid by the said Commissioners, a certificate or certificates under the hands and seals of two or more of such Commissioners, specifying the amount of the sum to be advanced and lent, to be respectively numbered and marked in the course and order in which the same shall be delivered, which certificate or certificates being deposited with the Receiver General or with any person or persons, bodies corporate or politic, whom the said Receiver General may authorize, shall be a sufficient authority, without other Warrant, to such Receiver General, to deliver such sum or sums of money as shall be described in any of the said certificate or certificates of such Commissioners.

Commissioners to deliver certificate specifying the amount to be advanced, which shall accordingly be paid by the Receiver General.

XVIII. And be it enacted, That the persons to whom or for whose use any such sums of money shall be applied for, and advanced and lent, shall previously enter into such notarial bonds or obligations in such sum or sums of money, respectively, and give such privileges and mortgages (*hypothèques*) upon the properties for which advances shall

Persons for whose use a sum of money shall be applied for, shall previously

ly grant *hypothèques* upon properties for the improvement of which advances shall be applied for.

Effect of such hypotheca.

Proviso: to what the priority of privilege shall extend.

Registration not to be requisite to secure the hypothec, &c.

Buildings, &c. constructed on the property subsequent to execution of bonds, to be presumed to have been erected out of monies lent under this Act.

Proviso: the contrary may be proved.

Commissioners may exact

shall be applied for, as the said Commissioners shall require ; and in case the Commissioners shall not think such properties and the mortgages or privileges which the parties applying are able to enter into as to such properties, a sufficient security for the advance applied for, then with such notarial bond or obligation in such sum or sums of money respectively and with such sureties, as the case may in the judgment of the said Commissioners require, which mortgages (*hypothèques*), privileges, bonds, obligations and security the said Commissioners shall cause to be taken ; and every mortgage (*hypothèque*), privilege, bond and obligation to be taken in pursuance of this Act, as well of the principal parties as of such sureties respectively, (if such sureties be deemed necessary) shall be to Our Sovereign Lady the Queen, in such sum or sums of money as shall be directed by such Commissioners by virtue of this Act, to be paid to Our said Lady the Queen, and with such conditions to be therein mentioned or thereunder written as by the said Commissioners shall be deemed within the meaning of this Act ; and that all such mortgages, (*hypothèques*), privileges, securities, bonds or obligations to be so made, shall be good and effectual in law, and shall be of the same quality, force and effect, to all intents and purposes, as any obligation made to Our Sovereign Lady the now Queen or Her Predecessors, or any of them, has at any time heretofore been or now is adjudged, received or taken to be, and shall have priority of privilege over all other privileges or other securities charged or chargeable upon or affecting properties for the restoration of which advances of money under this Act shall be made ; Provided always, that the priority of privilege above mentioned shall be understood to mean a priority of privilege over all mortgages (*hypothèques*) and over all other privileges whatsoever upon the value of the buildings to be erected, and the increased value of the lot or lots of ground by reason of such buildings having been erected thereon, and other improvements having been made upon the said properties by means of the sums of money to be advanced and lent under this Act, together with the general mortgage (*hypothèque générale*) which shall attach on the lot of ground and other immoveable property of the person or persons to whom such sums of money shall be advanced and lent, and of which such person or persons shall be then possessed, or shall thereafter become possessed, and which said mortgage shall take its rank from the date of the bond or obligation to be entered into by such person or persons ; and that, in order to secure to Her Majesty, Her Heirs and Successors, all the rights, privileges, mortgages (*hypothèques*) herein above mentioned, it shall not in anywise be necessary to comply with any of the provisions of the Registry Laws of Lower Canada, nor with any other law or laws prescribing any conditions, forms or formalities other than those prescribed by this Act.

XIX. And be it enacted, That any buildings or improvement which may be erected and made on any property subsequently to the execution of any bonds or obligations by which any sum or sums of money shall have been advanced and lent for the improvement of such property under this Act, shall be presumed to have been erected and made out of the monies so advanced or lent under this Act ; any law, usage or custom to the contrary notwithstanding ; Provided always, that it shall be lawful for any party or parties who shall pretend that such property was built upon and improved out of funds other than those mentioned in this Act, to prove the truth of his or their allegation in this respect by such documents or other legal evidence as the law requires.

XX. And be it enacted, That it shall be lawful for the said Commissioners or any two of them, to exact one or more sureties from any applicant or applicants for any sum

sum or sums of money under this Act, whenever they may have cause to apprehend that such applicant or applicants may not apply the said sum or sums of money to the purposes intended by this Act; and such surety or sureties shall only be responsible for the due application of such sum or sums of money and no more; and it shall also be lawful, for the said Commissioners or any two of them in like cases whenever they shall see fit, to advance and lend any sum or sums of money under this Act upon the express condition that the said sum or sums of money shall remain in their hands, to be paid over to any person or persons who shall or may undertake to build such property, as the work progresses, and the said Commissioners are hereby authorized to deliver to the said person or persons, his or their legal representatives, a certificate or certificates specifying the amount of the sum to be paid to such person or persons and the consideration for which the same is paid, and which certificate or certificates being in other respects made similar to other certificates mentioned in a previous clause of this Act, shall have the same force and effect as the said certificates, and the divers sums therein mentioned shall be paid in the manner herein-above provided in relation to such certificates; and it is hereby enacted, that a certified copy of such certificate or certificates under the hand and seal of any person or persons, bodies politic or corporate, by whom the sums of money therein mentioned shall be made payable, shall in all cases and by all Judges and other persons be deemed alone sufficient proof of the legal payment of the divers sums of money therein specified, without production of any evidence of the hand writing, signature or seal of such person or persons, bodies politic or corporate; any law, usage or custom to the contrary notwithstanding.

sureties for the due application of the sum lent.

Advances may be made as the work progresses.

Certificates to be given by the Commissioners to the parties. What shall be evidence of payment of the money to such parties.

XXI. And be it enacted, That it shall be lawful for the said Commissioners or for any two of them, and they are hereby required to insert or cause to be inserted in such bonds or obligations, a clause to the effect that the person or persons to whom such sum or sums of money are to be advanced and lent under this Act, shall build with stones or bricks, and shall cover the roofs of the buildings to be erected under this Act with such incombustible materials, as the said Commissioners or any two of them may direct, under such penalty in case of violation of such condition, as may be inserted in the bonds or obligations; and that it shall be lawful for the said Commissioners to require one or more sureties from such person or persons for the due performance of such conditions, whenever they shall have good and sufficient cause to apprehend a violation of the same.

A clause may be inserted in bonds obliging the building in stone or brick, &c.

XXII. And be it enacted, That it shall also be lawful for the said Commissioners, and they are hereby required, so long as the principal sums to be loaned under this Act, and the interest to accrue thereon, shall remain unpaid, to cause an insurance to be effected and to be annually renewed in proportion to the sums remaining due, on all and every the buildings, to be erected under this Act, which insurance or sums due under the same respectively, shall in case of the destruction of the said buildings, by fire, be payable to Her Majesty, Her Heirs and Successors by the underwriters thereof; and to insert or cause to be inserted in the bonds or applications to be entered into by any person or persons to whom any sum or sums of money may be advanced and lent under this Act, a clause or clauses to the effect that such person or persons shall bind himself or themselves to reimburse to Her Majesty whatever sum of money or rate of insurance may hereafter be paid by such Commissioners for effecting such insurance, and at the same period at which such rate of insurance is made payable by the respective policies.

Insurance to be effected on buildings to be erected and on the security of which money shall be advanced under this Act.

Principal sums to be repaid without deduction to Receiver General, or party by him authorized to receive the same, in not more than ten years.

Proviso. Commissioners may stipulate for payment by instalments. Proceeding if the sum lent be not duly repaid.

Crown Officer to bring suit.

XXIII. And be it enacted, That the principal sums of money which shall be awarded and lent by the said Commissioners under the authority of this Act, shall be repaid, without deduction or abatement, to the Receiver General of the Province, or to any person or persons, or to any body corporate or politic authorized by the said Receiver General to receive the same, at or previously to the expiration of ten years from the time of every such loan being advanced, with interest for the same in the meantime, to be computed at and after the rate of three pounds per centum per annum from the day of the advance, but the payment of such interest to commence at the end of one year from the time of every such loan being advanced, and to be thenceforward made at the expiration of every year until such principal sums shall be repaid: Provided always, that it shall be lawful for the said Commissioners and they are hereby required to stipulate, in the said bonds or obligations, that the payment of the sums of money advanced or lent as aforesaid, be made in ten equal yearly instalments, if the person or persons to whom the sums are advanced or lent so desire it; and if any default shall be made by any person or persons in the payment of any sum or sums of money within the respective times hereinbefore limited for payment thereof, according to the true intent and meaning of this Act, it shall and may be lawful for the said Commissioners hereby appointed or any two or more of them, and they are hereby required, without further delay, to transmit from time to time to the proper Law Officer or Officers of the Crown all bonds, obligations, and other securities due by persons to whom any sums of money have been advanced and lent as aforesaid; and that it shall be the duty of such Law Officer or Officers of the Crown presently to proceed against all or any of the persons who shall have entered into any bonds or obligations to Her Majesty, for the sum advanced, his, her and their heirs, executors and administrators, for the recovery of such parts of the sums advanced on such bonds or obligations as shall be then due, together with interest as aforesaid, and such costs and charges attending such proceedings as are by law in private cases payable for the same; and the sums so recovered (the costs and charges aforesaid excepted) shall be paid to the said Receiver General, or to any person or persons, or to any Bank by him authorized to receive the same, without abatement, deduction or delay, in satisfaction of such demands.

After payment of sums advanced a discharge may be granted in full.

Receipts for partial payments or interest.

XXIV. And be it enacted, That after due payment of the sums advanced, with interest as aforesaid, at the time and in the manner herein specified, every such bond or obligation being fully satisfied according to the true intent and meaning of this Act, it shall be the duty of one of the Law Officers of the Crown, or any other person whom the Governor of this Province may appoint for that purpose, to grant a discharge in full to any person who shall have effected such payments, upon the production by such person of a certificate to that effect from the Receiver General, or any person or persons, bodies politic or corporate by him duly authorized to receive such payments; and that receipts for partial payments in instalments, and annual interest as directed by this Act, shall also be granted in the manner prescribed for granting discharges in full.

Provisions when principal debtors or their sureties shall become bankrupts.

XXV. And be it enacted, That every bond or obligation entered into or given by any person or persons, either as principal or surety, who shall afterwards become bankrupt, within the true intent and meaning of the Statute made and now in force or which shall hereafter be made and be in force concerning Bankrupts, and against whom a Commission of Bankruptcy shall be awarded and issued out, shall by reason and force of such Bankruptcy and from the time of such Bankruptcy become and be forfeited and due and payable as against such Bankrupt or Bankrupts, and all the estate and effects of

of such Bankrupt or Bankrupts, which would be liable to satisfy the demands of the creditors seeking relief under such Commission of Bankruptcy, shall be liable and subject to, and are hereby made chargeable with the payment of the principal and interest due upon such bond or obligation, and all costs attending the recovery of the same, and that the claims of Her Majesty by virtue of this Act, shall be first paid and satisfied out of the personal estate and effects of such Bankrupt or Bankrupts, and in preference to the claim of any other creditor or creditors, and that such claims shall also be first paid and satisfied out of the value of the improvements made on the real estate or immoveable property, and of the increased value of such real estate or immoveable property, by means of the sum or sums of money advanced and lent as aforesaid, in preference to the claims of any other creditor or creditors; and it shall be lawful for the proper Law Officer of the Crown, in the name of Her Majesty, to apply by Petition in a summary way to the proper Courts having the jurisdiction of the matter of such Commission of Bankruptcy, to make due order accordingly, which such Courts respectively are hereby authorized and required to make; and that it shall also be lawful for one of the Commissioners to be appointed by this Act, or for one of the Law Officers of the Crown, or any other person whom the Governor of this Province may authorize for that purpose, to prove any debt or grounds of debt, under this Act, and vote in the choice of an Assignee or Assignees, Trustee or Trustees, as the case may require, of such Bankrupt's estate and effects, and to do and execute every other matter and thing, relating to such Bankruptcy, as fully and effectually as if such Commissioner, or other person, were the *bonâ fide* creditor of such Bankrupt or Bankrupts.

Privilege of
the Crown in
such case.

Crown Offi-
cer may prove
debt, &c.

XXVI. And be it enacted, That so soon as the whole sum of one hundred thousand pounds, by this Act authorized to be issued and applied under the provisions of this Act, shall have been advanced and lent by the said Commissioners for the execution of this Act, or whenever the Governor in Council shall think fit to declare that the powers of the said Commissioners for the execution of this Act, may, without injury to any principals or sureties, or other persons interested in the properties for which advances have been made, or in any securities given in relation thereto, or for any other just and reasonable cause, cease and determine, the Provincial Secretary is hereby authorized to direct the said Commissioners, who are thereupon hereby authorized and required to publish and declare, by advertisements to be inserted in the Canada Gazette, and two newspapers published in the City of Quebec, in the English and French languages, that at the expiration of three calendar months from the date of the said advertisements respectively, the said Commissioners for the execution of this Act, will cease to execute and perform the powers and authorities vested in them by this Act, and all the powers and authorities of the said Commissioners for the execution of this Act, shall thereupon cease and determine accordingly; and the said Commissioners shall with all convenient speed, lay an account in writing of all the proceedings under this Act, before both Houses of Parliament, and shall also deliver or cause to be delivered up to the Inspector General of Public Provincial Accounts, all the bonds, obligations, deeds, books of account, papers and writings of what nature or kind soever, in the possession, or under the control of the said Commissioners, or any of their Officers, touching or relating to any security or securities whatsoever taken by them, the said Commissioners for any loan or loans advanced by them under the powers and authority of this Act, together with the minutes of the proceedings of them the said Commissioners, and all books, papers and writings in any manner relating thereto.

When the
whole of the
£100,000
shall have
been advanced,
or the Go-
vernor shall
deem it expe-
dient, powers
of Commis-
sioners to
cease and de-
termine.

Notice to be
given.

Commission-
ers to report to
the Legisla-
ture, and to
deliver ac-
counts, &c., to
the Inspector
General.

Commissioners to report their proceedings to the Inspector General from time to time.

XXVII. And be it enacted, That the said Commissioners herein appointed shall from time to time at their discretion, or as often as they shall be thereunto required, during their carrying on any proceedings by virtue of this Act, and as soon as possible after the determination of such proceedings, without any further requisition, give an account of their proceedings in writing to the Inspector General of Public Provincial Accounts.

Penalty on persons forging, &c., debentures.

XXVIII. And be it enacted, That if any person or persons shall forge, counterfeit or alter, or cause or procure to be forged, counterfeited or altered, or knowingly or wilfully act or assist in the forging, counterfeiting or altering any debenture or debentures, certificate or certificates, discharge or discharges, or any receipt or receipts, to be given as aforesaid in pursuance of this Act, or shall utter any such forged, counterfeited or altered debenture or debentures, certificate or certificates, discharge or discharges, or any receipt or receipts, knowing the same to be forged, counterfeited or altered, with intent to defraud Her Majesty, Her Heirs or Successors, or any body or bodies politic or corporate, or any person whomsoever, then and in every such case, all and every person or persons so offending and being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer the same punishment as in cases of felony.

Persons applying money obtained under this Act for other purposes than those intended thereby, to be guilty of a misdemeanor.

XXIX. And be it enacted, That if any person or persons shall obtain any sum or sums of money under this Act, and shall not apply the same to the purposes intended by this Act, or if such person or persons shall not apply the said sum or sums of money to the purposes expressed in any bond or obligation to be entered into under this Act, such person or persons shall be deemed guilty of a misdemeanor and of obtaining money under false pretences, and shall suffer the same punishment as provided by law for such offence.

Residue of monies to be paid to Receiver General.

XXX. And be it enacted, That the residue of the monies so to be raised as aforesaid, after redemption of such debentures, shall be paid to and remain in the hands of the Receiver General of this Province, subject to such disposal and appropriation as the Legislature may from time to time by any Act or Acts direct and appoint.

Accounting clause.

XXXI. And be it enacted, That all monies to be raised by such loan as aforesaid, shall be accounted for, to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall be graciously pleased to direct.

Interpretation clause.

XXXII. And be it enacted, That the words "Lower Canada," wherever they occur in this Act, shall be construed as meaning all that part of this Province which formerly constituted the Province of Lower Canada; the word "Governor" shall be construed as including the Lieutenant-Governor, or person administering the Government of this Province; and words importing the singular number or the masculine gender only, shall be construed as including more than one person or thing of the same kind, and females as well as males, unless there be something in the context repugnant to or inconsistent with such construction.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXIII.

An Act to appropriate the sums therein mentioned to defray certain expenses of the Civil Government, for the year one thousand eight hundred and forty-six, and certain other expenses not otherwise provided for.

[9th June, 1846.]

MOST GRACIOUS SOVEREIGN :

WHEREAS by Messages from His Excellency Lieutenant General, the Right Honorable Charles Murray, Earl Cathcart, of Cathcart, in the County of Renfrew, Knight Commander of the Most Honorable Order of the Bath, Governor General of British North America, and Captain General and Governor in Chief, in and over this Province of Canada, bearing date respectively the eleventh day of April, the twelfth day of May, and the third day of June, one thousand eight hundred and forty-six, and the estimates accompanying the same, it appears that the sums hereinafter mentioned, are required to defray certain expenses of the Civil Government of this Province, for the year one thousand eight hundred and forty-six, and for certain other public purposes for which no provision is now made by law : May it therefore please Your Majesty that it may be enacted, and be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and out of any unappropriated monies forming part of the Consolidated Revenue Fund of this Province, there shall and may be paid and applied a sum not exceeding one hundred and seventeen thousand four hundred and fifty-three pounds, sixteen shillings and eleven pence, for defraying certain expenses of the Civil Government of this Province, for the year ending on the thirty-first day of December, one thousand eight hundred and forty-six, not otherwise provided for by law, and for certain other public purposes and services specified in the estimates accompanying the messages above mentioned.

Preamble.

His Excellency's Messages of 11th April, 1846, 12th May, 1846, and 3d June, 1846, recited.

£117,453 16s 11d appropriated for defraying certain expenses of the Civil Government, &c. for 1846.

II. And be it enacted, That from and out of the monies to be raised for that purpose by debentures, on the credit of the said Consolidated Revenue Fund of this Province, under the authority of the Acts passed during the present Session of the Provincial Parliament, there shall and may be paid and applied a sum not exceeding five hundred and twenty-thousand, eight hundred and thirty-three pounds, eleven shillings

£590,833 11s 1d appropriated for public works out of monies to be raised by debentures un-

and

der Acts of
this Session.

and one penny, currency, to defray the cost of certain public works specified in the estimate accompanying the messages secondly above mentioned.

Accounting
clause.

III. And be it enacted, That the due application of the monies hereby appropriated shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall be pleased to direct.

Accounts to
be laid before
the Provincial
Parliament.

IV. And be it enacted, That a detailed account of the monies expended under the authority of this Act, shall be laid before the Legislative Assembly of this Province, during the first fifteen days of the Session of the Provincial Parliament next after such expenditure.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXIV.

An Act to authorize the raising of the remainder of the Loan guaranteed by the Imperial Parliament.

[9th June, 1846.]

WHEREAS by the Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Session held in the fifth and sixth years of Her Majesty's Reign, and intituled, *An Act for guaranteeing the payment of the interest on a Loan of One Million, Five Hundred Thousand Pounds, to be raised by the Province of Canada*, it is enacted that it shall and may be lawful for Her Majesty, Her Heirs and Successors, to guarantee the payment of the Dividends and Interest, not exceeding the yearly rate of four pounds in the hundred, on any principal sums of money not exceeding the sum of One Million, Five Hundred Thousand Pounds in the whole, which may be required and raised for Public Works in this Province, and for other Provincial purposes in the said Act mentioned, by Loan, Debenture or otherwise; And whereas for giving effect to the said Act, it is enacted by the Act of the Parliament of this Province passed in the sixth year of Her Majesty's Reign, and intituled, *An Act to authorize the raising, by way of Loan, in England, the sum of One Million, Five Hundred Thousand Pounds sterling, for the construction and completion of certain public works in Canada*, that the sum of one million five hundred thousand pounds shall be raised and borrowed, with the guarantee aforesaid, by loan, debentures or otherwise, in the manner by the said Provincial Act provided: And whereas by reason of the premium at which the Debentures issued under the said Acts were disposed of, the said sum of one million five hundred thousand pounds was raised under the said guarantee, by the issue of Debentures for sums amounting in the whole to one million three hundred and sixty thousand pounds sterling, and no more, leaving a sum of one hundred and forty thousand pounds sterling, to which under the provisions of the said Imperial Act the guarantee aforesaid may be extended by Her Majesty, Her Heirs or Successors, but the raising of which is not authorized by the said Provincial Act: And whereas it is expedient to authorize the raising of the said last mentioned sum with the guarantee aforesaid, for defraying the cost of certain Public Works in this Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Governor by and with the advice of the Executive Council, to issue Debentures

Preamble.

Imperial Act
5 and 6 Vict.
c. 118, cited.

Provincial Act
6 Vict. c. 8,
cited.

Governor in
Council may
cause Deben-

tures to be issued to make up the amount of £1,500,000 guaranteed by the said Imperial Act.

Provisions of the former Act extended to such Debentures.

The monies so raised shall be applied to the purposes mentioned in the Act of the present session.

Debentures payable in England on the security of the Consolidated Revenue Fund of this Province, and under and upon the said guarantee, for such sum or sums in sterling money, at a rate of interest not exceeding four per centum by the year, as shall together with the amount of Debentures already issued under the Act of the Provincial Parliament aforesaid, amount to the sum of one million five hundred thousand pounds, of sterling money, mentioned in the above recited Act of the Imperial Parliament, and that such Debentures shall be issued subject to the provisions of the Provincial Act cited in the Preamble to this Act, and of the Imperial Act aforesaid therein referred to; and all the provisions of the said Provincial Act are hereby extended and shall apply to the Debentures to be issued under the authority of this Act, to the principal sum thereby raised, the dividend and interest thereupon, the Sinking Fund for the payment of such principal sum, the order in which the said principal and interest shall be chargeable on the Consolidated Revenue Fund of this Province, and to all other matters relative to the Loan hereby authorized, in as full and ample a manner to all intents and purposes as if the said sum to be raised under the authority of this Act had formed part of the sum authorized to be raised and borrowed under the provisions of the said Provincial Act, with the guarantee aforesaid.

II. And be it enacted, That the monies raised under the authority of this Act, shall and may be paid and applied as part of the sum appropriated for defraying the cost of certain Public Works, by the Act passed in the present Session of the Provincial Parliament, and intituled, *An Act to appropriate the sums therein mentioned to defray certain expenses of the Civil Government for the year one thousand eight hundred and forty-six, and certain other expenses not otherwise provided for*, and the due application thereof to such purposes shall be accounted for to Her Majesty, and to the Provincial Parliament, in the manner by the said Act provided.

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ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXV.

An Act to provide for the payment of certain Rebellion Losses in Lower Canada, and to appropriate the proceeds of the Marriage License Fund.

[9th June, 1846.]

WHEREAS it is expedient to make provision for the payment of the sums ascertained by the fourth and fifth Reports of the Commissioners appointed under the Ordinance of the Administrator of the Government of the late Province of Lower Canada, and the special Council for the affairs thereof, passed in the first year of Her Majesty's Reign, and intituled, *An Ordinance to authorize the appointment of Commissioners to investigate the claims of certain Loyal Inhabitants of this Province, for losses sustained during the late unnatural Rebellion*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That there be granted to Her Majesty a sum not exceeding nine thousand nine hundred and eighty six pounds, seven shillings and two pence, currency, to be raised by debentures in the manner hereinafter mentioned, to enable Her Majesty to pay the sums reported by the Commissioners under the Ordinance aforesaid, in their said fourth and fifth reports as being required to indemnify the persons therein mentioned, respectively, for their losses sustained during and by reason of the Rebellion in the said Ordinance mentioned.

Preamble.

Ordinance L.
C. 1 Vict. c. 7.
cited.

£9986 7s 2d,
(to be raised by
Debenture)
appropriated to
pay indemnity
awarded in the
said Ordinance.

II. And be it enacted, That for the purpose of raising such sum as aforesaid, it shall be lawful for the Governor in Council to authorize the issue of debentures to an amount not exceeding the said sum, in such form, and for such separate sums and redeemable respectively at such times, as may be found most convenient, bearing interest at a rate not exceeding six per centum per annum; the principal and interest of the said debentures not being chargeable on the Consolidated Revenue Fund of this Province, but being payable out of that portion of the Marriage License Fund arising in Lower Canada, as the same shall come into the hands of the Receiver General, the proceeds of which portion of the said Fund are hereby specially appropriated to the payment of the said principal and interest.

Governor in Council may authorize the issue of Debentures to the said amount. Such Debentures to be chargeable against the L. C. portion of the Marriage License Fund, and not against the General Revenue.

III.

U. C. portion
of the said
Fund appro-
priated to-
wards the sup-
port of certain
public institu-
tions in U. C.

III. And be it enacted, That the proceeds of that portion of the said Marriage License Fund arising in Upper Canada, shall be and are hereby specially appropriated towards the support of the following public Institutions in that portion of the Province, for which grants have usually been made out of the Consolidated Revenue Fund of this Province, that is to say, The Toronto General Hospital, The Kingston Hospital, The Toronto House of Industry, The Kingston Indigent Sick, and The Upper Canada Lunatic Asylum, to be applied in such manner and for such amounts as the Governor in Council shall direct.

Punishment of
persons forg-
ing Deben-
tures, &c.

IV. And be it enacted, That if any person or persons shall forge or counterfeit any Debenture to be issued under the authority of this Act, or any Stamp, indorsement or writing thereon or therein, or shall demand to have such counterfeit Debenture, or any Debenture with such counterfeit writing or other indorsement thereon or therein, to be exchanged for money by any person or persons who shall be obliged or required to exchange the same, or by any other person or persons whomsoever, knowing the Debenture so tendered or the indorsement or writing thereon or therein to be so forged or counterfeited, with intent to defraud Her Majesty, Her Heirs and Successors, or the person appointed to pay the same or any of them, or any other person or persons, body or bodies politic or corporate, then every person so offending being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer such punishment as shall be adjudged in that behalf, not exceeding imprisonment at hard labour in the Provincial Penitentiary for seven years.

Debentures
may be called
in and paid off
at any time.

V. And be it enacted, That it shall and may be lawful for the Governor of this Province at any time by Proclamation to call in any of the said Debentures, although the time therein named for the payment thereof may not have arrived, in order that the same may be paid off, and that at the expiration of six months from the date of such Proclamation, all interest on the Debentures called in for payment as aforesaid shall cease.

Accounts in
detail to be laid
before the Le-
gisature.

VI. And be it enacted, That accounts in detail of all monies received and paid, and of the Debentures issued and the interest thereon, and of the redemption of the whole or any part of such Debentures, and of all expenses attending the collection and payment of the sums of money collected, received or paid by authority of this Act, shall be laid before the Legislature of this Province at each session thereof.

Accounting
clause, to Her
Majesty.

VII. And be it enacted, That the due application of the monies so to be raised, shall be accounted for to Her Majesty, Her Heirs and Successors through the Lords Commissioners of Her Majesty's Treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall be graciously pleased to direct.

Interpretation
clause.

VIII. And be it enacted, That the words "Governor in Council" whenever they occur in this Act, shall be construed to mean the Governor, Lieutenanth-Governor, or person administering the Government of this Province, acting by and with the advice of the Executive Council thereof.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXVI.

An Act for raising, on the Credit of the Consolidated Revenue Fund, a sum of money required for certain Public Works.

[9th June, 1846.]

WHEREAS it is expedient to authorize the raising of a certain sum by loan on the credit of the Consolidated Revenue Fund of this Province, for the purpose of defraying the expense of certain Public Works: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Governor in Council to authorize the raising by way of loan, on the credit of the Consolidated Revenue Fund of this Province, of such sum as with the sum to be raised under the authority of the Act passed during the present Session, and intituled, *An Act to authorize the raising of the remainder of the Loan guaranteed by the Imperial Parliament*, shall form a sum not exceeding five hundred and twenty thousand eight hundred and thirty-three pounds, eleven shillings and one penny, currency, being the sum appropriated for certain Public Works by the Act passed during the present Session, and intituled, *An Act to appropriate the sums therein mentioned to defray certain expenses of the Civil Government for the year one thousand eight hundred and forty-six, and certain other expenses not otherwise provided for*, to the purposes of which Act the sum hereby authorized to be raised shall be applied in the manner by the said Act provided.

Preamble.

Governor in Council may authorize the raising of such sum by loan, as with that authorized by another Act of this Session, shall amount to £520,833 11s. 1d.

II. And be it enacted, That for the purpose of raising such sum as aforesaid, it shall be lawful for the Governor in Council, to authorize the issue of Debentures to an amount not exceeding in the whole the sum aforesaid, in such form, for such separate sums, at such rate of interest not exceeding six per centum per annum, and to make the principal and the interest thereon payable at such periods and at such places, as to him shall seem most expedient, the said principal and interest being hereby made chargeable upon the Consolidated Revenue Fund of this Province.

Governor may authorize Debentures to be issued.

III. And be it enacted, That if any person or persons shall forge or counterfeit any Debenture to be issued under the authority of this Act, or any stamp, indorsement or writing thereon or therein, or shall demand to have such counterfeit Debenture, or any Debenture with such counterfeit writing or other indorsement thereon or therein,

Penalty on persons forging, &c., the said Debentures, &c.

to

to be exchanged for money by any person or persons who shall be obliged or required to exchange the same, or by any other person or persons whomsoever, knowing the Debenture so tendered or the indorsement or writing thereon or therein to be so forged or counterfeited, with intent to defraud Her Majesty, Her Heirs and Successors, or the person appointed to pay the same or any of them, or any other person or persons, body or bodies politic or corporate, then every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer such punishment as shall be adjudged in that behalf, not exceeding imprisonment at hard labour in the Provincial Penitentiary for seven years.

Accounts to
be laid before
the Legisla-
ture at each
Session.

IV. And be it enacted, That accounts in detail of all monies received and paid, and of the Debentures issued and the interest thereon, and of the redemption of the whole or any part of such Debentures, and of all expenses attending the collection and payment of the sums of money collected, received or paid by authority of this Act, shall be laid before the Legislature of this Province at each Session thereof.

Accounting
clause.

V. And be it enacted, That the due application of monies so to be raised shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall be graciously pleased to direct.

Interpretation
clause.

VI. And be it enacted, That the words "Governor in Council," whenever they occur in this Act, shall be construed to mean the Governor, Lieutenant-Governor, or person administering the Government of this Province, acting by and with the advice of the Executive Council thereof.

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ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXVII.

An Act to amend and extend the Laws relative to the Turnpike Roads
in the neighbourhood of Montreal.

[9th June, 1846.]

WHEREAS it is expedient to amend a certain Ordinance of the Legislature of Lower Canada, passed in the Session held in the third and fourth years of Her Majesty's Reign, and intituled, *An Ordinance to provide for the improvement of the Roads in the neighbourhood of and leading to the City of Montreal, and to raise a fund for that purpose*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in addition to the roads to and over which the provisions of the aforesaid Ordinance and the powers of the Trustees therein mentioned, are extended by the seventh section thereof, the said provisions and powers shall be and are hereby extended to the roads hereinafter mentioned, as fully as if the said roads were expressly mentioned and included in the said seventh section of the said Ordinance, or as if the said powers and provisions in the said Ordinance contained were embodied in this Act and hereby re-enacted with reference to the said roads, that is to say :

Preamble.

Ordinance of
L. C. 3 & 4
Vict. c. 31,
cited.

Provisions of
7th section of
the said Ordinance extend-
ed to certain
other roads.

First. A road from the western extremity of the Lower Lachine road to the macadamized road eastward of the Church of the Parish of *St. Michel de Lachine*, along the South Shore of the Island of Montreal.

The Roads:

Secondly. A road from the west extremity of the Upper Lachine road to the Lock at Ste. Anne, along the South Shore of the Island of Montreal.

Thirdly. A road from the *Abord-à-Plouffe* road to the Village of *Ste. Geneviève*, along the North Shore of the Island of Montreal.

Fourthly. The road in the Parish of St. Laurent, connecting the Turnpike roads leading from the City of Montreal to the *Abord-à-Plouffe* and the *Sault-au-Récollet*.

II.

The said roads to be held to form one continuous road with those mentioned in the former Ordinances.

Ordinance
L. C. 4 Vict.
c. 7. cited.

II. And be it enacted, That the said roads, that is to say, the road from the west extremity of the Lower Lachine road to its junction with the macadamized road eastward of the Church of the Parish of *St. Michel de Lachine*, the road from the west extremity of the Upper Lachine road to the Lock at *Ste. Anne*, the road from *Abord-à-Plouffe* to the Village of the Parish of *Ste. Geneviève*, and the road in the Parish of *St. Laurent*, connecting the Turnpike roads leading from the City of *Montreal* to the *Abord-à-Plouffe* and the *Sault-au-Récollet*, shall, with regard to the tolls to be levied and collected thereon, be held and considered as forming one continuous road with the nine several roads mentioned in the seventh section of the said Ordinance, and with the two several roads mentioned in the first section of another Ordinance of the Legislature of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to amend and extend the provisions of an Ordinance, passed in the third year of Her Majesty's Reign, intituled, 'An Ordinance to provide for the improvement of the roads in the neighbourhood of and leading to the City of Montreal, and to raise a fund for that purpose;'* any thing in the said two Ordinances or either of them to the contrary notwithstanding.

Powers of the Trustees with regard to the said new roads.

Act 4 & 5
Vict c. 35,
cited.

III. And be it enacted, That the Trustees of the Montreal Turnpike Roads shall and may demand, levy, exact and receive from all and every person or persons passing upon or using any part of the roads to be made under the authority of this Act, the same rates of toll, to be calculated in the same manner and by the same proportion as are set forth and contained in an Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to amend the Ordinances of the Legislature of the late Province of Lower Canada, providing for the improvement of the roads in the neighbourhood of the City of Montreal*, and furthermore, such rates of toll in addition to the above rates, as will suffice to cover the annual interest of the capital expended, the collection of tolls, requisite repairs, and expenses of management; and shall also in all respects have the same powers for making regulations concerning the said roads and the tolls to be levied thereon, as they now have and possess under the Ordinances and Act aforesaid with regard to the other roads under their control, and the tolls to be levied thereon.

Trustees empowered to raise a further sum of £27000 by loan, on the credit of the Tolls.

Rate of interest limited.

IV. And be it enacted, That in addition to the loan of thirty-five thousand pounds, currency, mentioned in the sixteenth section of the said Ordinance, passed in the session held in the third and fourth years of Her Majesty's Reign, and to the further loan of twelve thousand pounds, currency, mentioned in the sixteenth section of the said Ordinance passed in the fourth year of Her Majesty's Reign, and authorized to be raised for the purposes of the said Ordinances, the said Trustees may raise by way of loan on the security of the tolls by the said Ordinances and Act authorized to be imposed, and of other monies which may come into their possession, and be at their disposal, under and by virtue of the said Ordinances and Act, and of this Act, and not to be paid out of or chargeable against the general revenue of this Province, any further sum of money not exceeding twenty-seven thousand pounds, currency, for the purposes in the said Ordinances and in this Act authorized and specified; and the debentures for such further loan, and also for so much of the loan authorized by the Ordinances aforesaid as hath not yet been raised, shall respectively bear interest at the rate to be therein mentioned, which interest shall not exceed the rate of six per centum per annum, and such interest shall be paid out of the tolls upon the roads or out of any other money at the

the disposal of the said Trustees for the purposes of the said Ordinances and of this Act.

V. And be it enacted, That over and above the sums which the said Trustees are authorized by the next preceding section of this Act and by the two Ordinances herein-before mentioned to raise by way of loan, it shall be lawful for the said Trustees, at any time, and as often as occasion may require, to raise in like manner such further sum or sums as may be necessary to enable the said Trustees to pay off the principal of any loan which they may have bound themselves to repay at any certain time, and which the funds in their hands or which will probably be in their hands at such time and applicable to such payment, shall appear insufficient to enable them to repay : Provided always, that any sum or sums raised under the authority of this section shall be applied solely to the purpose herein mentioned, that no such sum shall be borrowed without the approval of the Governor or person administering the Government of this Province, and that the whole sum due by the said Trustees, under debentures then unredeemed and issued under the authority of the said Ordinances and of this Act, shall in no case exceed seventy-two thousand pounds, currency ; and all provisions of this Act and of the said Ordinances, touching the terms on which any sum shall be borrowed under the authority thereof by the Trustees, the rate of interest payable thereon, the payment of such interest, (except as to the payment of such interest by the Receiver General, or out of any Provincial funds,) shall be extended to any sum or sums borrowed under the authority of this section.

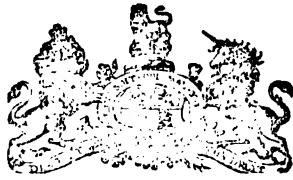
Trustees may borrow money to pay off debentures payable on a certain day.

Total amount of their debt at any time limited.

Provisions extended to such loans.

VI. And be it enacted, That the due application of all public monies whereof the expenditure or receipt is authorized by the preceding section, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall be pleased to direct.

Accounting clause.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXVIII.

An Act to amend a certain Act, intituled, *An Act to amend a certain Ordinance therein mentioned relative to the Turnpike Roads near Quebec.*

[9th June, 1846.]

WHEREAS it is expedient to amend the Act hereinafter mentioned in so far as relates to the rates of Toll thereby imposed: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Schedule of Tolls annexed to the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to amend a certain Ordinance therein mentioned, relative to the Turnpike Roads near Quebec*, shall be and is hereby repealed; and the Schedule to this Act annexed shall be substituted therefor, to all intents and purposes, as if the said Schedule hereunto annexed had been annexed to the said Act and referred to in several enactments thereof.

Preamble.

Schedule of Tolls annexed to the Act 8 Vict. c. 55, repealed and the Schedule to this Act substituted for it.

II. And be it enacted, That the Trustees of the Quebec Turnpike Roads shall remove the Toll Gate commonly called the Kilmarnock Gate, and shall not erect any other in the stead thereof.

Trustees to remove the Kilmarnock Gate.

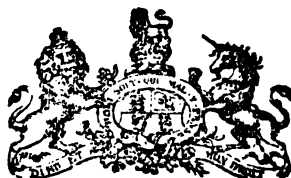
SCHEDULE OF TOLLS.

	£	s.	d.
For every four wheeled carriage or vehicle, drawn by one horse or other beast,.....	0	0	6
For each additional horse or other beast,.....	0	0	2
For every Gig, Caleche, Cab or two wheeled Omnibus, drawn by one horse or other beast,.....	0	0	5
For each additional horse or other beast,.....	0	0	2
For every spring Cart, Cart, or other two wheeled vehicle other than those above mentioned, drawn by one horse or other beast,.....	0	0	3
For each additional horse or beast,.....	0	0	2

For

	£	s.	d.
For each Sleigh, <i>Traine</i> , drag Berlin, or other winter vehicle, drawn by one horse or other beast,.....	0	0	2
For every additional horse or other beast,.....	0	0	1
For every Horse, Mare, Gelding, Ass or Mule, with a rider,.....	0	0	2
For every Horse, Mare, Gelding, Ass, Mule, Ox, Cow and head of other neat cattle,.....	0	0	1
For every score of Sheep, Lambs, Hogs or Swine,.....	0	0	5
The said Tolls to be paid one half on passing and the other half on repassing.			

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



A N N O N O N O

VICTORIÆ REGINÆ.

C A P. L X I X.

An Act to enable the District of Bathurst to receive the School Monies apportioned to it in the year one thousand eight hundred and forty-five, notwithstanding the failure of the District Council to levy an equal sum.

[23rd May, 1846.]

WHEREAS the District Council of the District of Bathurst have by their Petition to the Legislature represented that by various circumstances, arising partly out of the change made in the limits of the said District and in the Townships composing the same, by an Act passed during the now last Session of the Provincial Parliament, the said District Council did not cause to be levied a sum of money equal to the amount of public money apportioned to the said District towards the support of Common Schools therein, for the year one thousand eight hundred and forty-five, and that therefore the said District did not become entitled to the public money so apportioned, and the same was not distributed, but remains in the hands of the District Superintendent, and the Teachers in the several School Districts have either been paid by the inhabitants, or still remain wholly or in part unpaid: And whereas the said District Council have by their said Petition, prayed that notwithstanding the default aforesaid, the District may receive the public money so apportioned to it, and from the peculiar circumstances of the case it is expedient to grant the prayer of their Petition, on the condition hereafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the District Superintendent shall, during the present year one thousand eight hundred and forty-six, retain in his hands, for the purposes of this Act, the monies so apportioned as aforesaid, for the said District, for the year one thousand eight hundred and forty-five, and if the District Council shall, during the present year, levy and cause to be paid to the District Superintendent, for the purposes of this Act, a sum at least equal to that apportioned to the said District for the year one thousand eight hundred and forty-five, and now in his hands as aforesaid, but not otherwise, then notwithstanding the default by the said District Council, to cause to be levied a sum equal to the amount of the public money apportioned to the said District as aforesaid, the public money so apportioned shall, with the sum so levied for

Preamble.

District Superintendent to retain in his hands during this year, monies apportioned for 1845.

for the purposes of this Act, be distributed among the several School Districts therein, in the same proportion as it would have been if such default had not been made; but the sum payable for each School District, respectively, shall not be paid by the said District Superintendent, except for such purposes, to such Officer or person, and under such regulations, as the District Council of the said District, shall, by any By-law or By-laws to be passed in that behalf, direct and appoint, nor for any purpose except the payment of Teachers having acted as such during the year one thousand eight hundred and forty-five, or the repairing or building of School Houses in such School Districts respectively; any thing in the Act passed in the seventh year of Her Majesty's Reign, intituled, *An Act for the establishment and maintenance of Common Schools in Upper Canada*, to the contrary notwithstanding: Provided always, that if the said District Council shall not during the present year cause to be levied and paid to the District Superintendent, the sum above required to be so levied and paid for the purposes of this Act, then the sum now in his hands as aforesaid shall, in the year one thousand eight hundred and forty-seven, be dealt with and distributed as it would have been during the present year, if this Act had not been passed.

7 Vict. c. 29,
cited.
Proviso.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. LXX.

An Act to amend the Act of Incorporation of the City of Toronto.

[9th June, 1846.]

WHEREAS it is expedient to alter and amend the Act of Incorporation of the City of Toronto, and to provide for the erection of a Court of Record, to be called the Recorder's Court, therein, and for other purposes hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so much of the second section as excepts the lands conveyed to the University of King's College or to the Chancellor, President and Scholars thereof from being included within the Liberties thereof,—and so much of the said section as divides the City into five Wards,—and so much of the ninth section as provides for the Liberties to be attached to St. David's Ward,—and so much of the thirteenth section as empowers the Common Council to make By-laws for licensing Inns, Taverns and Houses where Spirituous Liquors are sold,—and so much of the thirty-first section as relates to the disqualification to be elected or vote,—and also, the fourth, tenth, eleventh, twelfth, twenty-third, thirty-third, thirty-fifth, seventy-sixth, seventy-seventh, seventy-eighth, seventy-ninth, eightieth, eighty-first, eighty-second, eighty-third, eighty-fourth, eighty-fifth, and eighty-sixth sections of the Act of the Legislature of Upper Canada, passed in the fourth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to extend the limits of the Town of York, to erect the said Town into a City, and to incorporate it under the name of the City of Toronto*,—and also so much of the fourth section as limits the time of building a Court House in the said City,—and so much of the fifth section as limits the time in which the money to be received for the purpose in the fifth section, shall be repaid,—and so much of the twenty-second section as declares that the rate or sum in the pound in the Liberties of the said City shall be one-fourth of the sum in the pound which shall be rated within the said City, except as to vacant land within the said Liberties which shall continue to be rated and assessed in the same manner as before this Act was passed,—of an Act of the Legislature of Upper Canada, passed in the seventh year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to alter and amend an Act passed in the fourth year of His Majesty's Reign, intituled, 'An Act to extend the limits of the Town of York, to erect the said Town into a City, and*

Preamble.

Certain parts
of the Act
U. C. 4 Will.
4. c. 23, and of
7 Will. 4. c.
39, repealed.

to incorporate it under the name of the City of Toronto,'—be and the same are hereby repealed.

Appointment
of Recorder.

Recorder to be
ex officio a
Justice of the
Peace.

His Salary,
and how paid.
Proviso
Appointment
not to be made
except on resolu-
tion of the
City Council.
Proviso—Cer-
tain parts of
the said Acts
to remain in
force until a
Recorder be
appointed.
Recorder's
Court;

Its jurisdic-
tion.

II. And be it enacted, That it shall and may be lawful for the Governor General, or person administering the Government of this Province for the time being, to appoint a fit and proper person being a Barrister of Upper Canada, of not less than five years standing, to be a Recorder in and for the said City, who shall also be a Justice of the Peace, *ex officio*, of the said City, who shall hold his office during good behaviour, and shall receive a salary of two hundred pounds per annum, payable quarterly out of the funds of the said City, in the hands of the Chamberlain of the said City; Provided nevertheless, that no such appointment shall be made until a resolution of the Common Council of the said City shall have been first passed, declaring that in their opinion it is necessary to appoint a Recorder; Provided always, that until the appointment of a Recorder pursuant to the provisions of this Act, so much of the said recited Acts as relates to the holding of the Mayor's Court, and to the powers and authorities of such Court, shall remain in full force and effect, but no longer.

III. And be it enacted, That there shall be a Court of Record called the Recorder's Court of the City of Toronto, wherein the Recorder for the time being shall preside assisted by one or more of the Aldermen of the said City, or in the event of his absence by sickness or other cause one of the Aldermen of the said City, to be elected by the Aldermen from among themselves, shall preside; and that the said Court shall in all cases possess the like powers and have the same jurisdiction as to crimes, offences and misdemeanors committed in the said City and Liberties thereof as the Courts of Quarter Sessions of the Peace now have or hereafter may have by law in Upper Canada, as to crimes, offences and misdemeanors committed within their local jurisdiction.

Sessions of the
Court.

IV. And be it enacted, That the said Court shall hold four sessions in each year, which sessions shall commence on the second Monday after the opening of the four regular sittings of the Common Council of the said City in each year.

Grand Jury.
of Recorder's
Court.

V. And be it enacted, That the Grand Jury of the Recorder's Court shall consist of twenty-four persons to be summoned by the High Bailiff under a Precept signed by the Recorder in the same manner as Grand Juries of the Quarter Sessions are now or hereafter may be by law summoned by the Sheriff of any District in Upper Canada.

Panel of Petit
Jury.

VI. And be it enacted, That the panel of the Petit Jurors shall consist of not less than thirty-six nor more than sixty Jurors to be summoned by the High Bailiff under a Precept signed by the Recorder in the same manner as Petit Jurors of the Quarter Sessions for the different Districts of Upper Canada, are now or may hereafter by law be summoned by the Sheriffs of the said respective Districts.

Grand and
Petit Juries,
how to be
composed.

VII. And be it enacted, That such persons only residing in the said City or the Liberties thereof shall be summoned to compose the Grand and Petit Jurors of the said Recorder's Court, as are at present or hereafter may be liable to be summoned as Grand and Petit Jurors in any Court of Upper Canada.

Powers of
Grand Jury.

VIII. And be it enacted, That the Grand Jury shall have all the power and authority over offences committed in the City of Toronto and the Liberties thereof which Grand
Juries

Juries for the General Quarter Sessions of the Peace of any District in Upper Canada, now have or hereafter may have.

IX. And be it enacted, That the like process and proceedings now had in the said General Quarter Sessions of the Peace in criminal cases shall and may be used in the said Recorder's Court when exercising criminal jurisprudence, and the like power to take recognizances and all other powers and duties incidental to such jurisdiction, and which the said Courts of General Quarter Sessions now or hereafter may possess by law together with the powers granted by this Act, are hereby vested in the said Recorder's Court as far as regards any offences, crimes and misdemeanors arising or committed within the said City and the Liberties thereof.

Same process as in General Quarter Sessions to be used in Recorder's Court as regards crimes, &c., committed within City and Liberties.

X. And be it enacted, That upon the acquittal of any defendant or defendants in the said Court, the Recorder or Presiding Officer thereof shall, upon its appearing to the satisfaction of the said Court that there was a reasonable and probable cause for such prosecution, order the costs thereof to be taxed by the Clerk of the said Court to be paid out of the funds of the said City.

Costs of prosecution may be allowed on acquittal in certain cases.

XI. And be it enacted, That the Recorder shall have the power of suspending from the duties of his office any High Bailiff or Constable of the said City for a period, and that immediately after such suspension he shall report the same with the cause thereof, if he deem such High Bailiff or Constable deserving of dismissal for the cause of such suspension, to the Common Council, and the said Common Council shall thereupon in their discretion dismiss such High Bailiff or Constable, or direct that he shall be restored to the duties of his office after the period of such suspension shall have expired, and during such suspension no such High Bailiff or Constable shall be capable of acting in his said office except by the express permission of the Recorder in writing; nor shall such High Bailiff or Constable be entitled to any salary or remuneration for the period of such suspension: Provided always, that it shall be in the power of the Recorder of the said City to appoint some fit and proper person to act as High Bailiff during the period of such suspension of any High Bailiff as aforesaid.

Recorder may suspend from his duties High Bailiff or Constable of City.

Common Council to decide on such suspension.

Proviso.

XII. And be it enacted, That the Clerk of the said Common Council shall be Clerk of the Recorder's Court, and perform the same duties and receive the same emoluments as now appertain to the said Clerk, when acting in the Mayor's Court.

Clerk of Common Council to be Clerk of Recorder's Court.

XIII. And be it enacted, That it shall and may be lawful for the Common Council of the said City, in Common Council assembled, by a Legislative Act or By-law of the said Council, made according to the provisions of the Act of Incorporation of the said City, to stop up, widen, alter and divert any public highway, street or lane, or to lay out any new street or highway, or to extend any street already laid out, or to change the level of the same: Provided always, that before any such Act, or By-law shall be passed, it shall be the duty of the said Common Council, by resolution in Common Council assembled, to direct a notice of their intention, to stop up, widen, or divert any such public highway or street, or to extend any street already laid out or to change the level of the same, to be given and to be published at the least one calendar month in all the newspapers of the said City, and also to hear in person, or by Council or Attorney, any person through whose land such highway, road, street or lane, or proposed highway road, street or lane shall run, if he claims so to be heard before them, at any time before the final passing of such Act or By-law.

The Corporation may stop up or alter streets, &c., in the City.

Proviso; Previous notice to be given.

Proceedings to be taken by any party for obtaining compensation for property taken, &c.

Arbitrators to be appointed.

Proviso :
If Mayor neglect to appoint an Arbitrator, &c, an action may be instituted in Queen's Bench against City of Toronto, to recover compensation, &c.

Plaintiff to pay costs in certain cases.

XIV. And be it enacted, That upon the passing of any Act or By-law of the Common Council, for the purpose of authorizing the opening of any street or other thoroughfare, or of widening, changing or diverting any street or public thoroughfare, or extending or altering the level of the same, so as to cause the same or any part thereof to go through or be placed upon, or injuriously to affect the land or other real property of any person or persons, it shall and may be lawful for the person or persons who shall own such property, either in fee or as tenants for a term of years, to name an Arbitrator and give notice thereof in writing to the Clerk of the said Common Council, and the Mayor of the said City shall, within three days after such notice, name an Arbitrator on behalf of the said City and give notice thereof to the person or persons owning the said property and appointing such Arbitrator as aforesaid, and the said two Arbitrators shall, within three days thereafter, appoint a third Arbitrator, and if they cannot agree upon such third Arbitrator, then such third Arbitrator shall be appointed by the Recorder of the said City, within six days after being notified of such disagreement, and the said three Arbitrators, or the majority of them, shall have power to determine upon and award the amount of damages (if any) to be paid to such person or persons as aforesaid, and their award shall be binding on such person or persons and the said City respectively, so as it be made in writing, within three calendar months after their appointment: Provided always, that if the said Mayor or Recorder shall neglect to appoint an Arbitrator for the said City, within such time as aforesaid, or the said Arbitrators or a majority of them, shall be unable to agree in their award, then it shall be lawful for such person or persons as aforesaid, to institute a special action on the case at law, in Her Majesty's Court of Queen's Bench for Upper Canada, against the City of Toronto, to recover compensation, and such action shall be sustainable whether any entry shall be made under such Act or By-law or not, or whether any use shall be made of such property under such Act or By-law or not, and if no such entry or use other than for the purpose of survey shall be proved at the time of any such action, then the Judge, who shall try the same, shall certify the want of such proof upon the Record: and in such case, it shall and may be lawful for the said Common Council, at any time after such trial, and until three calendar months after the rendering judgment upon such verdict, to repeal such By-law and to tender and pay to the Plaintiff in such action, or to the Plaintiff's Attorney, the taxed costs of the said Plaintiff in such action, and from and after such tender and payment, the City of Toronto shall be discharged from the damages which shall be assessed in such action, and the land and other real property which shall be proposed to be taken by any such Act or By-law, shall be and remain as if no such Act or By-law had been passed, and no entry or other use of such land or real property, for the purpose of such Act or By-law, shall be lawful after the assessment of the damages by the Jury, until the amount of the damages assessed and the costs of the Plaintiff in such action, shall have been levied by the Sheriff, or paid, or discharged, or lawfully tendered to the Plaintiff or the Attorney for the Plaintiff in such action.

XV. And be it enacted, That if a tender shall be pleaded, and if upon the trial of any such action it shall be proved, to the satisfaction of the Jury, that a lawful tender shall have been made to the Plaintiff or the Plaintiff's Attorney, of a compensation or sum equal to or greater than the amount of the damages assessed by such Jury, the said Jury shall find such tender by their verdict; and in case of such finding, the costs of the Defendant in such action incurred after such tender, shall be borne by the Plaintiff, and the Plaintiff in such case shall receive no costs for any proceedings subsequent to such tender.

XVI. And be it enacted, That the Arbitrators aforesaid, or the Jury, in estimating the damages or compensation in any such action, shall take into consideration any benefit or advantage which the Plaintiff shall or may derive from the opening, or diverting, or extending any such street or other public thoroughfare, and deduct the same from the damages or compensation, and in case the said benefit to be derived from the said opening, diverting or extending such street or public thoroughfare shall be greater than the damages which shall be found to arise from the taking of such land or other real property, the verdict shall be for the Defendant: Provided always, and be it enacted, that it shall not be competent to the said Common Council to pass any Act or By-law for stopping up any original allowance for roads within the said City or Liberties.

Arbitrators to take into consideration advantages to be derived by Plaintiff from proposed improvement.

XVII. And be it enacted, That it shall and may be lawful for the said Common Council from time to time, after the passing of this Act, to make such Ordinances or By-laws as they may deem expedient for the security, safety and advantage of the inhabitants, containing rules, regulations and restrictions to be observed by all persons in the erection of buildings to be built within the said City, and to impose a penalty not exceeding five pounds, for each and every infraction of any such rule, regulation or restriction, contained in any such Ordinances or By-laws, upon the Master or Head-builder, or Master-workman, or other person owning such building, to be erected or built, to be recovered and enforced in the same manner as is provided for the recovery of other penalties, for the infraction of other By-laws of the said Common Council, and also for restraining, ruling and governing apprentices, domestics, hired servants, and journeymen, in the said City, and for the conduct of masters and mistressess towards their said apprentices, domestics, hired servants, and journeymen; and for apprenticing or binding out destitute orphans without legal guardians, and juvenile offenders or vagrants, under the age of twenty-one years, and for the arrest and punishment of idle, drunken, vagrant and disorderly persons, for assessing the Proprietors of real property immediately benefitted by such improvements for such sum or sums as may at any time be necessary to defray the expense of making or repairing any common sewer, drain, flagging, posts or pavement in any public street, square, or place, and for regulating the time and manner in which such assessment shall be collected and paid, to prevent the excessive beating or cruel and inhuman treatment of animals, and to fix an annual rent upon the drainage of any house, cellar, yard or land into any common sewer; and to charge the property so drained for the payment of such rent; and to prevent gaming or the keeping of any gaming house or place for gaming, in the said City; and to compel the owners of real property within the City, to enclose the same; and to enforce the payment of the rate or assessment in lieu of Statute Labour by imprisonment, in default of goods and chattels of the person or persons so rated or assessed, for a period not exceeding twenty days, and for exempting from the payment of such rate or assessment any person or persons to whom they shall deem it right to grant such exemption, on account of the limited pecuniary means of such persons liable to pay the same; and to change the site of any Market or Market place within the said City, or to establish any new Market or Market place within the said City, or to appropriate the site thereof or any part of such site for any other public purpose whatever; any Law, Statute or usage to the contrary notwithstanding; saving to any party aggrieved by any Act of the said Council, respecting any such Market or Market place, any remedy such party may, by law, have against the Corporation of the said City, for any damages sustained by such party by reason of such Act; and to pull down, demolish and remove, when necessary, all old, dilapidated or ruinous walls, chimneys and buildings, that may endanger the public safety; and to determine

Corporation may make By-laws for certain purposes, and impose penalties for infractions of such By-laws.

Proviso.
No household-
ers to be as-
sessed for the
purpose of
sweeping or
watering any
street, unless
two-thirds
of the citizens
residing in
such street
shall have ap-
plied to Coun-
cil to have the
said street
swept, &c.

determine the time and manner in which the same shall be demolished, pulled down or removed, and by what party or parties the expense thereof shall be borne; to assess the householders residing in any particular street, lane, square or section of the City, in any sum or sums necessary to meet the expense of sweeping and watering the said street, lane, square or section of the said City: Provided, that not less than two-thirds of the citizens residing as aforesaid, in such street, lane, square or section of the City, shall first have applied to the said Council to have the same swept and watered; and provided also, that the said assessment shall in no case exceed the amount of three-pence in the pound; and to impose a special assessment over and above all other rates and assessments, which the said Council are empowered to impose, to defray and meet the expense of any building or buildings, or other property whatsoever, that may be demolished, destroyed, injured, damaged or deteriorated in value, by any riot, tumultuous assemblage, or riotous persons whatsoever, in the said City: And to prohibit and prevent the construction of any wooden buildings in or within such localities, as the said Council shall, from time to time, define, limit and appoint; and also to prohibit the erection of any high-pressure steam-engine or other steam engine, foundry furnace or machinery, requiring for its use the employment of any substance of a highly inflammable nature, within such localities, unless under such regulations or restrictions as the said Council shall direct and appoint, and to enforce the observance of the said two last mentioned By-laws, by the destruction of such buildings or erections therein mentioned, or by fine or imprisonment as shall seem to the said Council best for enforcing the same; and to defray out of the funds of the City any expense to be incurred by the said Council, in assisting any person in their employment, who shall receive any wound or contract any disease at any fire, or in assisting or providing for the family of any person in their employment, who shall be killed at any fire, or in bestowing rewards in money, medals or otherwise, upon any person who shall have performed any meritorious action at any fire; and also for establishing and regulating line fences in the said City and the Liberties thereof.

**City of Toron-
to divided into
six Wards.**

XVIII. And be it enacted, That the said City of Toronto shall be divided into six Wards, to be called Saint James, Saint David, Saint Lawrence, Saint George, Saint Andrew and Saint Patrick, and that until otherwise provided, as hereinafter mentioned, the said four last mentioned Wards shall continue to comprise the same parts of the City and Liberties respectively, as before this Act was passed.

**Saint James'
Ward.**

XIX. And be it enacted, That the Saint James' Ward shall comprise all that part of the said City and Liberties lying within the following limits, that is to say: between the northerly boundary of King street, the easterly boundary of Yonge street, the westerly boundary of Nelson street, and the extreme end or verge of the Liberties within these boundaries.

**Saint David's
Ward.**

XX. And be it enacted, That the Saint David's Ward shall comprise all that part of the said City and Liberties lying within the following limits: between the easterly boundary of Nelson street, and the northerly boundary of King street eastward thereof, to the extreme end or verge of the Liberties within those boundaries.

**Elections for
Charter Offi-
cers of the
said Wards.**

XXI. And be it enacted, That no election for Charter Officers of the Ward of Saint James, shall take place until the general election for such Officers next ensuing the passing of this Act, and the Aldermen and Common Councilmen who shall then be elected
for

for the said Ward of Saint James, who shall have the fewest votes, shall go out of office at the expiration of one year from such election: Provided always, that in case of an equal number of votes having been given to both Aldermen, or both Common Councilmen in such Ward, then it shall be decided by a majority of votes of the said Common Council, which of such Aldermen and Common Councilmen shall vacate his seat as aforesaid: Provided also, that any Alderman or Common Councilman going out of office, shall be capable of forthwith being re-elected if he be duly qualified by law.

Proviso.

Proviso.

XXII. And be it enacted, That in the event of the absence of the Mayor from the said City for a period exceeding at one time three calendar months, without having been first authorized so to absent himself by a resolution of the Common Council, he shall vacate his office of Mayor: and in such case it shall and may be lawful for the remaining Aldermen and Common Councilmen at a special meeting of the Common Council for that purpose, to be convened within three days after such office shall become vacant, to elect from among the Aldermen a successor to such Mayor, who shall hold his office for the remainder of the time of service of his immediate predecessor, which Mayor shall be sworn into office by any one of the Judges of the Superior Courts in Upper Canada.

The office of Mayor to be vacated in certain cases, and how the vacancy shall be supplied.

XXIII. And be it enacted, That it shall and may be lawful for the Mayor at any time, by and with the consent of the Common Council of the said City, to resign his office of Mayor; and his successor shall in such case be elected within the time and in the manner, and for the same period as is provided in the next preceding section of this Act.

Mayor may resign with consent of Council.

XXIV. And be it enacted, That if the Mayor of the said City, or any Aldermen or Common Councilmen shall be declared bankrupt, or shall apply to take the benefit of any Act for the relief of insolvent debtors, or shall compound by deed with his creditors, then and in every such case, such person shall thereupon immediately become disqualified, and shall cease to hold such office of Mayor, Alderman or Common Councilman, as the case may be, for the residue of the time for which upon such bankruptcy, insolvency, or composition with his creditors, such Alderman or Common Councilman was liable to serve.

Mayor, &c., becoming a bankrupt, to be disqualified.

XXV. And be it enacted, That in the event of the absence from the said City of any owner or owners of any real property therein liable to assessment, and the non-payment of the assessment on any such real property by any agent or other person on behalf of the said absent owner or owners thereof, an increase of ten per cent on the amount at which the said property may and shall be assessed, shall annually accrue upon and be made to all arrears of assessment due on such property, so long as the same shall remain unpaid; and the said property or any sufficient part or portion thereof, if the same be easily susceptible of division, shall, after five years of non-payment of the said arrears of assessment and increase of ten per cent thereon, be liable to be sold therefor, and the Sheriff of the Home District shall upon a return to him by the Chamberlain of the said City, of the said arrears for the said period of five years, advertise the said real property for sale for such arrears, in all the newspapers of the said City for six calendar months after such return so made to him by the said Chamberlain, and before proceeding to any sale thereon; and after such period of six months, shall sell the same to the highest bidder to be got for the same: Provided always, that the

Proceedings when owner of property liable to assessment shall be absent from the City.

owner

Proviso—owner may redeem his lands on payment of rates, and ten per cent thereon, and all costs.

owner or owners of the said lands may redeem the same at any time after such return to the said Sheriff by the said Chamberlain, and before the sale of the said real property, upon the payment to the said Sheriff or Chamberlain of the said rates with the increase of ten per cent thereon, and all costs and charges incurred by the non-payment thereof; and if the said real property shall have been sold by the said Sheriff, then upon the payment to the purchaser thereof of the amount paid by him for such purchase, with the addition of twenty per cent thereon: Provided always, that in such last mentioned case, the owner or owners of such real property shall redeem the same within the period of one year after the sale thereof as aforesaid.

Lessors as well as Lessees to be responsible for assessments.

XXVI. And be it enacted, That all Proprietors, Lessees and others who shall let for rent premises within the said City or Liberties, for a term of years or from year to year, shall, themselves, as well as the occupiers of such premises, be liable and responsible for the rates and assessments assessed upon such premises, and such assessment shall and may be recovered from the said Proprietors, Lessees and others, whenever the Tenants or Lessees shall have left the said premises before a Warrant of distress according to Law could be issued for the same.

Boarders and lodgers in the said City, not to be disqualified from voting, if they are otherwise qualified.

XXVII. And be it enacted, That no person or persons being otherwise qualified to vote at any election of an Alderman or Common Councilman for the said City shall be disqualified from voting, by reason of such person or persons being only a boarder or lodger in the said City or Liberties thereof.

Quorum of Court for correction of lists of voters.

XXVIII. And be it enacted, That three members of the Court for the correction of the lists of voters for the election of Aldermen and Common Councilmen of the said City, shall form a *quorum* of the said Court, and have all the powers and authorities that are now by law vested in and exercised by the said Court as heretofore established.

Duty of Recorder with respect to licensing inn-keepers.

XXIX. And be it enacted, That when and so soon as a Recorder shall be appointed, after any sitting of the Recorder's Court for the said City, he shall discharge the duty heretofore discharged by the Mayor and Aldermen of the said City in regard to the licensing Innkeepers within the said City and Liberties, and the determining the sum to be paid by such Innkeeper to the Inspector of Licenses for the Home District, which said License shall be granted in the manner heretofore adopted, and the sum to be paid therefor shall be paid by the said Inspector of Licenses to the Chamberlain of the said City to be applied to the uses of the said City: Provided always, that such payment shall not be made to the said Chamberlain until a sufficient sum of money shall have been received by the Receiver General, under the provisions contained in the fourth section of an Act passed in the eighth year of the Reign of Her present Majesty, intituled, *An Act to provide for the payment of claims arising out of the rebellion and invasion in Upper Canada, and to appropriate the duties on Tavern Licenses to local purposes, to pay off the debentures in the said Act mentioned.*

Proviso.

Act 8 V. c. 72, cited.

Powers of Mayor and Aldermen with respect to disorderly conduct in houses of inn-keepers, &c.

XXX. And be it enacted, That the Mayor and two Aldermen of the said City, or any three or more Aldermen of the said City, shall have full power and authority upon complaint made to them or any one of them upon oath, of any riotous or disorderly conduct in the house of any Inn or Tavern-keeper in the said City, to enquire summarily into the matter of such complaint, and for any Aldermen to summon such Inn or Tavern-keeper to appear to answer such complaint, and thereupon it shall be lawful for

for the said Mayor and two Aldermen, or any three or more Aldermen to investigate the same, and to dismiss the same with costs to be paid by the complainant, or to convict the said Inn or Tavern-keeper of having a riotous or disorderly house, and to abrogate the License, or to suspend the benefit of the same for any period not exceeding sixty days; and during the period of such suspension such Inn or Tavern-keeper shall lose all the powers, privileges and protection that would otherwise have been afforded him by his said License.

XXXI. And be it enacted, That as soon as the Common Council of the said City shall assume the duties and the payment of the debt contracted by the Commissioners of the Macadamized Roads, and assume the duties mentioned in the fifty-seventh section of an Act passed in the third year of the Reign of Queen Victoria, intituled, *An Act to repeal, alter and amend the laws now in force for the regulation of the several Macadamized Roads within this Province*, it shall and may be lawful for the said Common Council to erect and build such Toll-Gates at the various approaches to the City, as they shall think necessary and expedient, and from time to time pass By-laws for the regulation and management of the same, and for the imposing, and levying, and collecting Tolls thereat; which said Tolls when so collected shall be paid to the Chamberlain of the said City for the uses of the said City: Provided always, that in the event of the Common Council obtaining possession of the said Macadamized Roads situate within the said City, it shall not be lawful for the Commissioners aforesaid to erect or cause to be put upon the said Roads any Toll-Gate within a less distance than three miles from the boundaries or Liberties of the City of Toronto.

When Council shall assume payment of debt contracted by Commissioners of macadamized roads, they may erect and build Toll-gates at approaches of the City.

Act of U. C. 3 Vict c. 53.

Proviso.

XXXII. And be it enacted, That it shall and may be lawful for the Mayor, Aldermen and Commonalty of the City of Toronto to purchase a parcel or tract of land to be called the *Industrial Farm of the City of Toronto*, not less than two hundred acres in extent within such convenient distance as they may deem expedient, not more than ten miles, and to erect or build thereon such houses, buildings, yards and other enclosures as may be deemed proper for the purposes of this Act.

Council may purchase "Industrial farm."

XXXIII. And be it enacted, That it shall and may be lawful for the Mayor, Aldermen and Commonalty of the said City to make Laws, By-laws, Rules, Regulations and Ordinances touching and concerning the management, government, reclaiming, discipline, labour and employment, control and necessary correction, restraint and punishment of all persons committed or sent there to work or labour either in the field or otherwise, or for any other purpose contemplated by this Act.

Council may make By-laws concerning the management of persons sent to work on the said farm.

XXXIV. And be it enacted, That any such Farm with all the buildings, erections and improvements so to be purchased as aforesaid shall, with regard to jurisdiction only, be deemed and taken to be within the Liberties of the said City of Toronto, and within the jurisdiction thereof for all the purposes aforesaid.

Such farm to be with regard to jurisdiction, taken to be within the Liberties of the City of Toronto.

XXXV. And be it enacted, That it shall and may be lawful for the Mayor or Recorder, or any two Magistrates of the said City, to commit to hard labour at or send to the said Industrial Farm, under such regulations as shall be established as aforesaid, any or such description of persons as may by By-laws of the said Council from time to time be adopted or declared expedient or necessary.

Mayor or recorder, &c., may commit persons to hard labour on the said farm.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. LXXI.

An Act to alter and amend the Act of Incorporation of the Town of Cobourg.

[9th June, 1846.]

WHEREAS it is expedient to alter and amend the law relating to the qualification of persons voting at any future election for the members of the Board of Police of the Town of Cobourg, in the Newcastle District of Canada West, and to make other amendments in the Act incorporating the said Town: And whereas the several laws now in force relative to the levying and collecting rates and assessments within this Province, have, in their application to the Town of Cobourg, been found to produce well-founded complaints on the part of the inhabitants of the said Town, and it is therefore expedient to provide for the more equal and just levying of the rates and assessments in the said Town; And whereas it is also expedient that the whole of the rates and assessments rated and assessed on property within the said Town should be paid and applied to the uses of the said Town, the said Town paying to the funds of the Newcastle District, a certain yearly sum, as the just proportion which the said Town ought to bear and pay in the general expenses of the District: And whereas it is expedient that the Statute Labour should be enforced in the said Town or commuted at the discretion of the Board of Police, the present law regulating the same not being clearly defined in the Act of Incorporation of the said Town: And whereas it is necessary to increase the powers of the Board of Police for the more effectual good government of the said Town: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the several laws now in force relative to the levying and collecting rates and assessments therein, that is to say: an Act of the Legislature of Upper Canada, passed in the fifty-ninth year of the Reign of His late Majesty King George the Third, intituled, *An Act to repeal the several laws now in force relative to levying and collecting rates and assessments in this Province, and further to provide for the more equal and general assessment of lands and other rateable property throughout this Province*; and a certain other Act of the said Legislature, passed in the sixth year of the Reign of His late Majesty King George the Fourth, intituled, *An Act to amend and make permanent a certain Act of the Parliament of this Province, passed in the fifty-ninth year of the Reign of*

Preamble.

Acts of U. C.
59 G. 3. c. 7.
6 Geo. 4. c. 7.
9 Geo. 4. c. 3,
repealed in so
far as relates
to the Town of
Cobourg.

of His late Majesty King George the Third, intituled, '*An Act to repeal the laws now in force relative to the levying and collecting rates and assessments in this Province, and further to provide for the more equal and general assessment of lands and other rateable property throughout this Province,*' and to render more effectual the several laws of this Province imposing rates and assessments by providing, under certain restrictions, for the levying rates and assessments by a sale of a portion of the lands on which the same are charged; and a certain other Act of the said Legislature, passed in the ninth year of the Reign of His late Majesty King George the Fourth, intituled, *An Act to amend the Assessment Laws of this Province*, so far as the said Acts relate to or affect land and other rateable property within the said Town of Cobourg, and the rates or assessments to be rated, levied or collected therein, shall be and they are hereby repealed, save and except only so far as the same Acts respectively may have repealed any prior Act or Enactment affecting or concerning the land or property within the said Town, or the rates or assessments to be rated, levied or assessed thereon within the said Town.

Part of the Act of U. C. relating to the Town of Cobourg repealed.

II. And be it enacted, That so much of the fourth section of an Act of the said Legislature, passed in the seventh year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to establish a Police in the Town of Cobourg, and to define the limits of the said Town*, as relates to the qualification of voters in the said Town; and also so much of the sixth section of the said Act as relates to the period of the year when the annual elections in the several Wards of the said Town shall be held; and so much of the fourteenth section of the said Act as relates to the period to which the President and members of the said Corporation shall hold their office; and also the eighteenth, twentieth, twenty-first, twenty-second and twenty-third sections of the said Act, and so much of the twenty-sixth section of the said Act as relates to the Statute Labour; and also the twenty-eighth and twenty-ninth sections of the last mentioned Act, shall be and the same are hereby repealed.

A certain sum to be paid yearly to the Newcastle District, instead of rates.

Proviso.

Proviso.

III. And be it enacted, That in lieu of the payment of any part of the rates or assessments heretofore payable to the general funds of the Newcastle District, the said Corporation shall sometime in the month of January in each and every year, out of the monies of the said Town, pay to the Treasurer of the Newcastle District for the general uses of the said District, the yearly sum of one hundred and twenty pounds, the first payment thereof to begin and be made some time in the month of January next ensuing the passing of this Act: Provided always, that nothing in this Act contained shall extend or be construed to extend to prevent or excuse the said Town from paying to the general funds of the Newcastle District, all such sum and sums of money as are or may be hereafter collected within the said Town for or on account of the assessment already imposed by the general assessment laws of this Province, and due and payable by the inhabitants of the said Town for the year before the passing of this Act: Provided always, that when and so soon as the said Newcastle District shall, by any Legislative Enactment passed during the present or any future Session of the Legislature, be relieved from payment of the expenses of the Administration of Justice within such District, or from any part thereof, then the payment of the said sum of one hundred and twenty pounds so to be paid by the said Town of Cobourg to the said District of Newcastle as aforesaid, or such part thereof as shall be proportionate to the share or portion of such expenses whereof the said District shall from time to time be relieved, shall cease and be no further made.

IV.

IV. And the better to enable the said Corporation to erect a suitable Town-Hall and Market Buildings, and build public sewers, and from time to time as required to make other improvements in the said Town for the comfort, health, and general welfare of the said Town, Be it enacted, That it shall and may be lawful for them to borrow from time to time sufficient sums of money for those purposes, not exceeding six thousand pounds, from any person or persons willing to advance the same at a rate of interest not exceeding that fixed by law; and the said Corporation are hereby authorized and empowered to mortgage or place in security the property of the said Town, as well as to secure the rates and assessments to be levied and collected under the provisions of this Act, to the person or persons so lending, for the purpose of repaying the same, with the legal interest thereon, in such manner as the said Corporation may see fit.

Corporation empowered to borrow a sum not exceeding £6000.

V. And be it enacted, That from and after the first day of January next, any law to the contrary thereof notwithstanding, the members of the said Corporation shall be elected annually from among the male inhabitant householders of the said Town, of the full age of twenty-one years, who being subjects of Her Majesty shall be freeholders therein, which freehold property shall be valued by the Assessor or Assessors for the Town at the rental or annual value of not less than thirty pounds per annum, or leaseholders therein holding by lease made for a term of seven years and upwards, and who shall pay for and in respect of any property by him or them held as aforesaid within the said Town, an annual rent of not less than thirty pounds; Provided always, that any buildings erected upon any leasehold tenement held as aforesaid shall be valued with such tenement; and where both shall amount to the annual value of thirty pounds or upwards, the *bonâ fide* owner thereof, being otherwise qualified as aforesaid, shall be eligible as a member of the said Corporation, and at the first election made under the authority of this Act the Returning Officers respectively shall judge of the qualification of the Candidates respectively, and their decision shall be final; and that no person shall be capable of holding the office of Member of the said Corporation who shall not have been resident within the said Town for the space of five years or upwards previous to his election: Provided always, that no person shall be capable of serving as a member of the said Board who shall be a Minister, Priest or Ecclesiastic, or Teacher under any form or profession of religious faith or worship.

Out of what inhabitants of the Town the members of the Corporation shall be elected after 1st January, 1847.

Proviso.

Proviso.

VI. And be it enacted, That it shall and may be lawful for the inhabitants at their Annual Elections to elect an Assessor at each Ward within the said Corporation, being an inhabitant of the ward wherein he shall be elected and who is qualified to be elected a Member of the said Board of Police, and that it shall be the duty of the said Assessors conjointly to take the assessment of the said Town as hereafter established by law.

Assessor to be elected for each Ward.

VII. And be it enacted, That the Assessors to be so as aforesaid elected, shall not in pursuance of the duties vested in them and imposed upon them by law, base their proceedings, estimate or assessment of property on a fancied value or rental thereof, as has heretofore often been done, but that the said Assessors be and they are hereby required to determine the assessment to be made by them on the interest of the actual value of the property assessed, or upon the actual or *bonâ fide* rent thereof; and when property to be assessed is in the occupation of the proprietor or proprietors thereof, the said Assessors shall be and they are hereby required to determine the assessment to be paid thereon upon and according to the rent which the said property is worth and would obtain

Valuation to be a *bonâ fide* one.

Rent.

obtain were the same to be leased by the said proprietor or proprietors thereof at the time the said property is assessed.

Penalty for refusing to act as Assessor.

VIII. And be it enacted, That every person duly qualified who shall be elected to the office of Assessor as aforesaid of the said Town, shall accept the office to which he shall have been so elected, or shall, in default thereof, pay to the Clerk of the said Corporation and for the use of the said Town a fine for non-acceptance thereof of ten pounds ; and any such vacancy shall be filled up by a new election, to be made in the manner prescribed for the new election of Members of the Board of Police under similar circumstances.

Further penalty may be imposed by any By-law.

IX. And be it enacted, That it shall and may be lawful for the said Members of the Board of Police of the said Town, at a meeting or meetings of the said Board, composed of not less than two-thirds of the said Board, to impose by By-law a penalty not exceeding one hundred pounds, currency of the said Province, on any Assessor or Assessors of, in or for the said Town or any Ward thereof, refusing or wilfully neglecting to attend to, perform or fulfil the duty or duties which he or they, the said Assessor or Assessors, are or may be bound and required by law to attend to, perform and fulfil.

Who shall be electors of Councillors and Assessors.

X. And be it enacted, That the Members of the Board of Police and the Assessors of the said Town of Cobourg, at the periods hereinafter appointed, shall be chosen by the majority of votes of such persons, being male inhabitants of the age of twenty-one years, and subjects of Her Majesty within the Ward for which such election shall be had, as shall severally be possessed, on the first day of January next preceding such election, of a dwelling-house within the said Ward, held by them respectively in freehold, or for a term of years, or for a term of not less than one year, the annual value whereof, if held in freehold or in ground rent leases, or the rent paid therefor if otherwise held, shall not be less than ten pounds, current money of the said Province, and who shall have been resident within the said Town during one year or more previous to the first day of January next before any such election, and who shall have resided within the particular Ward for which such election shall be had, not less than three months next before the first day of January preceding any such election, and who shall have been rated and assessed to and in respect of the rates or assessments laid under the Laws and By-laws in force on the first day of January next preceding any such election ; and part of a dwelling-house in which an inhabitant shall reside as a householder, and not as a boarder or lodger, and having an outer door by which a separate communication with the street may be afforded, shall be considered a dwelling-house within the meaning of this enactment, provided the annual value thereof, or the rent paid therefor as aforesaid, be not less than ten pounds, current money aforesaid, per annum, and every male person as aforesaid, though not a householder, who shall have been resident in the said Town during one year next before the first day of January preceding any such election of Members of the Board of Police, and of the Assessors, who, individually, or jointly as a co-partner with any other person or persons, shall have occupied any warehouse, counting-house or shop, within any of the said Wards of the said Town during three months next before the first day of January preceding such election, and shall have been rated for not less than one year in respect of such premises for such rate or assessment as aforesaid, shall, whether the year for which he may so have been rated be or be not expired, provided the rate or assessment for that year be paid, be entitled to vote at the election of Members or Assessors to be had in the Ward

Ward in which such premises shall be situated : And provided also, that no such inhabitant, householder or occupier of a warehouse, counting-house or shop, within the said Town, shall be entitled to vote at any such election of Members or Assessors, unless he shall, on or before the first day of January next before the holding of any such election, have paid the amount of all rates and assessments within the said Town that may have been due and payable by him up to the first day of January next before the holding of any such election. Proviso.

XI. And be it enacted, That it shall be lawful for the said Corporation of the said Town, by a By-law or By-laws, to be enacted in this behalf, to make provision for the making of lists or a registration of all persons qualified to vote at elections of Members of the Board of Police and other Officers in the said Town, whereby the right to vote at such elections may be determined ; and until such provision shall have been made by such By-law or By-laws, every person desirous of voting at any election of Members of the Corporation as aforesaid, shall, before he be permitted to vote, if required by the Officer or person holding any such election, or by any person qualified to vote at the same, make oath to the particulars of his qualification, and that he has not before voted at such election : which oath the Officer or person holding such election is hereby authorized and required to administer. Council may provide for registration of voters.

XII. And be it enacted, That after provision shall have been made by a By-law or By-laws as aforesaid, for the making of lists or a registration of persons qualified to vote, whereby the right in individuals to vote may be determined as aforesaid, every person desirous of voting at any election of a Member or Members of the said Board of Police, and of an Assessor or Assessors as aforesaid, shall, before he be permitted to vote, produce a certificate under the hand of the proper Officer of his qualification, pursuant to any such By-law, and shall, if required by the Officer or person holding such election, or by any person qualified to vote at the same, take the following oath, which the said Officer or person holding such election is hereby authorized and required to administer, that is to say : Certificate of qualification to be produced by voters after such registration.

“ I do swear, that I am the person described in the Certificate that I now produce, and that I have not before voted at this election : So help me God.”

XIII. And be it enacted, That if any person shall knowingly swear falsely as to any of the particulars of his alleged qualification, in pursuance of the next preceding section of this Act, or if he shall knowingly swear falsely in taking the oath prescribed by the next preceding section of this Act, he shall be deemed guilty of wilful and corrupt perjury, and suffer the pains and penalties provided by law, in cases of wilful and corrupt perjury. False swearing to be perjury.

XIV. And be it enacted, That persons entitled to vote at the election of Members as aforesaid, shall vote within the particular Ward, in which the property constituting their qualification to vote shall be situated, and not otherwise ; and if any such person shall be possessed of property entitling him to vote in two or more Wards, he shall be entitled to vote in that Ward only in which he may reside. In what Ward electors shall vote.

XV. And be it enacted, That the first election of Members and Assessors under this Act, shall be holden on the third Monday in July next, after the passing of this Act, Times of first and subsequent elections.

Act, and that the Members and Assessors of the said Corporation, so chosen as aforesaid, shall remain in office until the second Monday in January next, and until a new Board shall be chosen and formed according to the provisions of this Act. And that on the second Monday of January, in every year thereafter, an election shall be holden in each Ward of the said Town of Cobourg, for choosing Members of the said Corporation, as well as Assessors, according to the general provisions of the Act of Incorporation hereby amended, and that the Members and Assessors of the said Corporation, to be elected on the third Monday in July next, shall hold office only until the second Monday in January next, or until a new Board be formed as aforesaid.

Corporation may enact By-laws for divers purposes connected with the good government and police of Cobourg.

XVI. And be it enacted, That the said Corporation of Cobourg shall have full power and authority from time to time to make, revise, alter and amend, administer and enforce, such By-laws as they may deem proper for making, opening and widening, gravelling, flagging, paving, pitching, levelling, raising, repairing, mending, lighting, macadamizing and cleaning any of the streets, squares, alleys, lanes, walks, side-walks, cross-walks, roads, highways, bridges and sewers now laid out or erected, or that may hereafter be laid out or erected within the limits of the said Town; to regulate or restrain cattle, horses, sheep, goats, swine and other animals, geese and other poultry, from running at large within the limits of the said Town; and to prevent and regulate the running at large of dogs, and to impose a reasonable tax upon the owners or possessors thereof; to regulate or prevent the encumbering or injuring of the streets, squares, lanes, walks, side-walks, cross-walks, roads, highways, bridges, with any wheel-barrows, carts, carriages, lumber, stone or other materials whatsoever; to prevent the selling or vending by retail in the public highways, any meat, vegetables, fruit, cakes, cider, beer or other beverage whatsoever; to prevent the sale of any strong or intoxicating drink to any child, apprentice or servant without the consent of his legal protector; to prevent the immoderate riding or driving of horses or other cattle in any of the public highways of the said Town; to prevent the leading, riding or driving of horses upon the side-walks of the streets or other improper places; to prevent or regulate bathing and swimming in and about the docks, wharves, slips and shores in front of the limits of the said Town; to suppress tippling houses and restrain persons from keeping the same; to enforce the due observance of the Sabbath; to prevent the excessive beating or other inhuman treatment of horses, cattle or other beasts on the public highways of the said Town; to regulate or suppress all public billiard tables, roulette tables, horse racing, as well as any species of gambling and gambling apparatus whatsoever; and to regulate and licence all theatres kept for profit; and persons exhibiting for gain or profit, any wild beasts, puppet-show, wire dance, circus riding, or any other idle acts or feats which common showmen, circus riders or mountebanks or jugglers usually practice or perform, and to limit the number, and to provide for the purpose of licensing the same; to regulate and prevent the firing of guns, pistols and other fire-arms, and to prevent the firing of squibs and crackers; to regulate or prevent the erection of slaughter houses or tanneries; to abate or cause to be removed any nuisances within the limits of the said Town; to regulate victualling-houses, and all houses where fruit, oysters, clams or victuals may be sold to be eaten or drunk therein, and all other places for the reception and entertainment of the public, and to limit the number of them, and to provide for the proper licensing of them at such rates as to the said Corporation may seem expedient, the proceeds of such licenses, except Tavern licenses, to form part of the public funds of the said Town, and to be disposed of in such manner as to the said Corporation may seem meet for the benefit of the said Town; any law or usage

of this Province to the contrary notwithstanding; to regulate the place and manner of selling and weighing hay, and the selling pickled and other fish; to restrain and regulate the purchase of butchers' meat and fish by persons called runners and hucksters; to regulate the weighing and measuring of coal, cord wood and other fuel, salt and lime, exposed for sale in any part of the Town; to regulate and assize the price of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto; to regulate the vending of meat, vegetables and fruit; to regulate the present Market or any other Market that may be hereafter erected in the said Town; to regulate and enforce the erection of party walls; to provide for the permanent improvement of the said Town in all matters whatsoever, as well ornamental as useful; to enforce the sweeping and cleaning of chimnies, and to regulate the dimensions of chimnies hereafter to be built, and to regulate one or more Fire Companies; to regulate and require the safe construction of deposits for ashes, and to regulate the manner of depositing and keeping ashes at the time they are taken from the fire-places and stoves; to regulate, remove or prevent the construction or erection of any fire-places, hearth or chimney, stove, stove-pipe, oven, boiler, kettle or apparatus, used in any house, building, manufactory or business, which may be dangerous in causing or promoting fires; to regulate the keeping and transporting of gunpowder or other combustible or dangerous materials, and the use of light and candles in livery and other stables; to regulate or prevent the carrying on of manufactories dangerous in causing or promoting fire; to regulate the conduct of inhabitants at fires; to provide for the keeping of fire-buckets, ladders and fire-hooks, and the making them a part of the real property to which they are attached; to erect, preserve and regulate public cisterns and other conveniences for the stopping or preventing fires; to provide for the preservation of property exposed at fires, and to prevent goods and other effects from being purloined thereat; to adopt and establish all such other regulations for the preservation from and suppression of fires, and the pulling down of adjacent houses for such purposes as they may deem necessary or expedient to provide for the security of the public and of the property of the said Town; to establish and regulate a Town watch and prescribe the powers of Watchmen; to license and appoint by warrant under the common seal of the said Town, or otherwise, such and so many inferior officers other than those mentioned in this Act, as shall from time to time be found necessary or convenient to enforce and execute such By-laws and Regulations as may hereafter be made by the said Corporation, and to displace all or any of them as often as the said Corporation of the said Town shall think fit; to regulate the management and provide for the security of the public property of the said Town; to establish or regulate one or more pounds; to direct the returning of bills of mortality, and to impose penalties on physicians, sextons and others, for default in the premises; to regulate the Police of the Town; to preserve the wells, pumps and cisterns, and to provide for the supply of good and wholesome water for the said Town, and to prevent the waste of water; to regulate the bonds, recognizances and other securities to be given by the Municipal Officers for the faithful discharge of their duties, and the amount for which the same shall be taken; to inflict reasonable penalties and fines for the refusing to serve in any Municipal office when duly elected or appointed thereto, and for the infringement of any and every law of the said Town; to regulate the time and place of holding elections for such Municipal Officers as are elective; to impose and provide for the raising, levying and collecting annually for the use of the said Town by a tax on the real and personal property in the said Town, a sum of money the better to enable them to carry into effect fully the powers hereby invested in them; provided that such tax on real property shall not

Corporation
may enact By-
laws for divers
purposes con-
nected with
the good go-
vernment and
police of Co-
bourg.

exceed

Corporation may enact By-laws for divers purposes, connected with the good government and police of Coubourg.

exceed in one year one shilling and three pence in the pound upon the assessed annual value of property lying and being within the limits of the said Town, and three pence in the pound upon the assessed value of personal property according to the value as hereinafter provided; and to impose a duty or duties by a By-law or By-laws on all grocers, bakers, butchers, hucksters, livery stable keepers or carters within the said Town; on all manufactories carried on or exercised, or in operation within the said Town; on all grist and flour mills, brewers, and distillers; on all soap and candle factories; on all ball alleys and other means of gambling, and on all tanneries and slaughter houses within the said Town; and to assess the proprietors of real property for such sum or sums as may at any time be necessary to defray the expenses, of making or repairing any common sewer in any public street or highway within the said Town, and immediately in front of such real property respectively; and to regulate the mode in which such assessments shall be collected and paid, and to make a By-law or By-laws for assessing the inhabitants residing in any particular street, or lane, square or section of the Town, in any sum or sums necessary to meet the expense of sweeping and watering the said street, lane, square or section of the said Town, provided that not less than two-thirds of the said inhabitants residing as aforesaid in such said street, lane, square or section, shall have first prayed or demanded to have the same swept or watered; and provided also, that the said assessment shall in no case exceed the amount of three pence in the pound; and generally to make all such laws as may be necessary and proper for carrying into execution the powers hereby vested or hereafter to be vested in the said Corporation or in any department or office thereof, for the peace, welfare, safety and good government of the said Town, as they may from time to time deem expedient; such laws not being repugnant to this Act or the general laws of this Province: Provided always, that no person shall be subject to be fined more than five pounds for the breach of any By-law or regulation of the said Town, and in default of payment of such fine, and of a sufficient distress being found for collection thereof, to be imprisoned in the Common Gaol of the said Newcastle District for a period of not more than thirty days.

Mode of enforcing the payment of rates and assessments remaining unpaid more than fourteen days after they shall be due and demanded.

XVII. And be it enacted, That if any person or persons licensed, rated or assessed as in manner herein directed shall refuse or neglect to pay the duties, licenses, rates or assessments charged upon him, her or them, for the space of fourteen days next after such duties, licenses or rates shall be due and demanded by the Collector of the Town, it shall and may be lawful for the said Collector to apply to the President or acting President of the Corporation for a Warrant, to the High Bailiff or any Constable of the said Town, to enter into the house or houses, or other dwellings or premises, of such person or persons and seize and take possession of his, her or their goods and effects, whether in the Ward in which the assessed property is situate or elsewhere in the said Town; which Warrant the President or acting President of the said Corporation is hereby authorized to grant upon a certificate signed and sworn to by such Collector, of a demand of such duty, license or rate having been made and of such person or persons being in arrear to the amount stated in such certificate; and if such duty, license, rate or assessment shall not be paid within five days next after such seizure, the said Collector is hereby authorized to sell at public auction at such place as may be proper, such part of the said goods and effects as shall be sufficient to pay the said rates and assessments, with the costs and charges attending such seizure and sale, returning the overplus, if any, to the owner.

XVIII. And be it enacted, That a majority of the said Board of Police shall be a *Quorum* for the dispatch of business: Provided always, that a smaller number may adjourn from time to time, and are hereby authorized to compel the attendance of absent Members in such manner and under such penalties as may be provided by any Act of the said Board.

Quorum of the Board fixed.

XIX. And be it enacted, That it shall and may be lawful to and for any one of the Members of the said Board of Police, individually, to order the immediate apprehension of any drunken or disorderly or riotous person or persons whom he shall find disturbing the peace within the limits of the said Town, and to confine him or her in a watch-house, lock-up house or the jail, in order that such person may be secured until he or she can be brought before the Board to be dealt with according to law, or may give bail for his or her appearance before the Board, if such member ordering the apprehension shall think fit to take bail in such manner as bail is given in by offenders before a Justice of the Peace.

Members of the Board invested with certain powers individually.

XX. And be it enacted, That any rate or assessment with which any real estate within the said Town may be legally rated or assessed, shall and may be exacted and recovered either from the owner of the real property so rated or assessed, or from any person occupying the same or any part thereof, either as a tenant or otherwise; and when any such rate or assessment shall be paid by any tenant, not bound to make such payment by the lease or other agreement, under which he holds or occupies such real estate, such tenant shall have the right to deduct the sum so paid by him from the rent payable by him, in respect of the enjoyment or occupation of the real estate so rated or assessed.

From whom rates may be recovered.

XXI. And be it enacted, That for the purpose of raising funds to provide for the purchase of any real estate for the use of the said Town,—for building a Market-house or other public building for the said Town,—for procuring Fire Engines,—for the securing, raising or paying any monies that may be borrowed under the authority of this Act, and the interest of such monies, and for all other purposes deemed expedient and necessary by the said Corporation for the welfare and improvement of the said Town, it shall and may be lawful for the said Corporation to levy an assessment upon all and every person who shall inhabit, hold, use or occupy any house, shop, or warehouse, building, or piece or parcel of land, being a separate tenement, situate, lying and being within the said Town of Cobourg, according to the value thereof respectively, to be ascertained in manner hereafter mentioned; and the time for such yearly rate or assessment for the present year, shall be the first Monday in August, in the year of Our Lord, one thousand eight hundred and forty six, and shall end on the day next preceding the second Monday in January then next, and in each year ensuing, both days included, and the time for which every future yearly rate shall be so rated and assessed, shall commence from the period at which the time for the last rate ended.

Money may be raised for certain purposes.

XXII. And be it enacted, That the rate or rates as aforesaid shall all be raised, levied or assessed upon the owners or possessors of the following chattel property, that is to say: stone horses kept for the purpose of covering mares, or other horses of the age of three years and upwards; horned cattle; phaetons, carriages, gigs, wagons, sleighs and other carriages kept for pleasure only, according to the value thereof, ascertained in manner hereinafter mentioned: Provided always, that nothing in this Act contained shall

What chattel property shall be taxable, and at what rates.

shall extend or be construed to extend to any house, lands, property, goods, effects, matters or things herein mentioned or enumerated, which shall belong to, or be in actual possession of Her Majesty, Her Heirs or Successors, unless the same shall be actually leased to individuals, nor to any churches, places of public worship, or burying grounds.

Annual value
how to be
computed.

XXIII. And be it enacted, That the value of all such houses, shops, warehouses, buildings, gardens, grounds, lands, tenements, and parts and portions thereof, being separate tenements as aforesaid, shall be rated according to the real or full yearly value thereof, which said yearly value shall be ascertained by the Assessor or Assessors for the Town to be appointed as hereinafter provided.

Ground at-
tached to
buildings how
valued.

XXIV. And be it enacted, That any lot or parcel of ground whereon any house or other building to be valued as aforesaid, is situate, and being held therewith as the same tenement, shall be assessed and valued with the house or building thereon.

Value put on
certain chattel
property.

XXV. And be it enacted, That the possessors or owners of the said horses, cattle and carriages hereinbefore mentioned, shall not be rated in respect thereof as hereinbefore mentioned, but the same shall be valued according to the certain fixed rates following, that is to say : every stone horse, kept for the purpose of covering mares for hire or gain, at two hundred pounds value ; every other horse, mare or gelding, above the age of three years, at ten pounds value ; milch cows, and other horned cattle, above the age of four years, at three pounds value ; every carriage with four wheels, drawn by two or more horses, kept for pleasure only, at fifty pounds value ; every phaeton or other open carriage, drawn by one horse, and kept for pleasure only, at twenty-five pounds value ; every two horse sleigh, kept for pleasure only, at fifteen pounds value ; and every one horse sleigh, kept for pleasure only, at seven pounds ten shillings value.

Collectors to
be appointed.

XXVI. And be it enacted, That it shall and may be lawful for the Corporation of the said Town from time to time to appoint one or more fit and discreet person or persons, inhabitant householder or householders of the said Town, to be Collector or Collectors for the said Town.

Assessors to
be sworn.

XXVII. And be it enacted, That every Assessor of the Town, before entering upon his duties as such Assessor, shall be first sworn by the President or acting President of the Corporation of the said Town, well, faithfully and impartially to perform and fulfil his duties as Assessor to the best of his knowledge and ability, which said oath the President or acting President of the said Corporation is hereby authorized to administer.

Duties of As-
sessors in mak-
ing the valu-
ation, &c.

XXVIII. And be it enacted, That it shall be the duty of the Assessor or Assessors of the said Town, in each and every year, to make such valuation as aforesaid within one month, or such further term as the Board of Police may allow, on the requisition of the President or acting President of the said Corporation, in pursuance of any resolution of the said Corporation authorizing any such valuation as aforesaid ; and also to leave for every person or persons so rated, whether he or she or they shall reside within the Ward in which such property is situate, or elsewhere in the said Town, at the residence of such person or persons, a notice of the value of the property in respect whereof he or she or they shall be rated ; and immediately after such assessment or valuation shall be completed the Assessor or Assessors respectively, shall deposit with the Clerk of the Corporation of the said Town, or such other person as by the said Corporation shall be

be authorized to receive the same, distinct assessment rolls, books or returns of the said value, which shall be rated as aforesaid ; and in case any person shall think himself, herself or themselves overcharged in such assessment roll book or return, it shall and may be lawful for such person or persons, within six days after the said notice shall have been given or left at his, her or their residence as aforesaid, to give notice in writing to the President or acting President of the said Corporation of the overcharge complained of, and the same shall be tried by the said Corporation, at such times and meetings of the said Corporation as the members composing the same shall direct and appoint, reasonable notices of such times and meetings to be given to the complaining party, and after hearing the said party, and his, her or their witnesses upon oath, (or affirmation, as the case may be,) the said Corporation shall, by a majority of voices or votes, finally decide and determine upon such complaint, and affirm or amend the return of the Assessor accordingly : Provided always, that if the complaining party shall neglect to appear at such meeting of the said Corporation, he, she or they having had reasonable notice thereof as aforesaid, the said Corporation shall proceed to make their final decision without hearing such party, and in case it shall appear to any two or more Members of the said Corporation that the value has in any case been given in or returned by the Assessor too low, they shall cause a notice to be served on the person so rated as aforesaid, and the person who made such rate, of the time and place of the meeting of the said Corporation at which the said matter shall be heard, and the same shall be finally determined by the said Corporation in like manner as aforesaid, after hearing the said complainants, and their witnesses upon oath or affirmation as aforesaid, and that the said Corporation shall have power to adjourn as they shall see fit.

Appeal given
to persons
overcharged.

Proviso.
Party neglect-
ing to appear.

Notice to be
given.

XXIX. And be it enacted, That any member of the said Corporation shall have full power to administer such oath or affirmation as aforesaid, and that the President or acting President, or any member of the said Corporation shall have full power and authority to issue a Summons for each witness who shall be required to attend before the said Corporation ; and if any person shall neglect or refuse to obey such Summons, upon being tendered a reasonable remuneration for his services, not exceeding two shillings and six pence per diem, he shall be liable to such fine not exceeding five pounds, as the said Corporation, on proof upon oath or affirmation, as the case may be, of the due service of such Summons, and of such neglect or refusal, shall impose ; and in default of payment of such fine, it shall and may be lawful for the President or any member of the said Corporation to commit such person to the Gaol of the Newcastle District : Provided always, that such imprisonment shall not exceed in any case thirty days ; and if any person shall knowingly swear or affirm falsely, in any of the cases referred to in the next preceding section of this Act, he shall be deemed guilty of wilful and corrupt perjury, and shall be punished accordingly, on conviction before any Court having jurisdiction thereof.

Members of
Corporation
may adminis-
ter oaths.

Proviso as to
imprisonment :
and as to per-
jury.

XXX. And be it enacted, That it shall and may be lawful for the said Corporation of the said Town, at some convenient time after the return of the assessment rolls aforesaid, to pass a yearly rate declaring the amount in the pound on such valuation, which shall be raised and levied for the year in which the rate shall be passed : Provided that the same doth not exceed one shilling and three pence in the pound upon real estate, and three pence in the pound upon chattel property as aforesaid.

Yearly rates
limited to 1s
3d in the
pound.

Relief may be granted in certain cases by the Corporation.

XXXI. And be it enacted, That it shall and may be lawful for the said Corporation to hear, on Memorial or Petition, the case or cases of such person or persons as during any one year for which rates aforesaid shall be respectively levied, shall have been assessed for any house or building, or any part thereof, which during such year shall have continued vacant for more than three calendar months of such year, and also the case or cases of such person or persons not assessed in respect of any property in the said Town, who, from sickness, extreme poverty, or any other cause, shall be unable to pay any rate by this Act imposed ; and on hearing such case or cases, it shall and may be lawful for the said Corporation to compound for or receipt the whole of any such rate or rates.

Proprietors and tenants to be jointly liable for rates.

XXXII. And be it enacted, That all proprietors, lessees, and others, who shall let for rent premises within the said Town, shall themselves, as well as the occupiers of such premises, be liable and responsible for the rate and assessment aforesaid, and such assessment shall and may be recovered from the said proprietors, lessees or others, or from the said occupiers, as the Collector or Collectors of the said Town shall judge convenient, under any By-law for that purpose made by the said Corporation.

Commutation for Statute Labour.

XXXIII. And be it enacted, That all male inhabitants heretofore liable under the general laws to perform Statute Labour within the limits of the said Town, shall be liable under this Act to perform the same in accordance with the general laws in force in Upper Canada regarding the same, but under the orders and superintendence of the Board of Police, as they may direct and enforce, or pay a commutation thereof at the discretion of the Board, the collection of which commutation shall be enforced in the same manner as the payment of taxes under this Act ; and in default of property, to be confined in the Common Gaol for any time not exceeding ten days.

Penalty for giving false certificates of amount of rent, &c.

XXXIV. And be it enacted, That from and after the passing of this Act, every landlord, proprietor, factor or agent, who shall wilfully grant a certificate or receipt, which contains a less sum than the rent really paid or payable for the premises therein mentioned or referred to, and every tenant who shall present to the Assessor as aforesaid, or otherwise alter or publish such a certificate or receipt, in order to procure a lessening or abatement of such rate or assessment, shall be liable to a penalty not exceeding ten pounds, to be recovered and disposed of in the same manner as other penalties are recovered and disposed of in the said Town, for breach of any of the By-laws or Regulations thereof.

Fine for bringing suits for things done under this Act limited.

XXXV. And be it enacted, That if any action or suit shall be brought against any person or persons, for any matter or thing done under the authority or in pursuance of this Act, such action or suit shall be brought within six calendar months next after the fact committed, and not afterwards, and the defendant or defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

Meetings of the Corporation.

XXXVI. And be it enacted, That the said Corporation shall assemble at the least twice in each month, for the transaction of the business of the said Town, and shall hold their sittings in the Town Hall.

XXXVII.

XXXVII. And be it enacted, That the Sheriff and Gaoler of the District of New-castle shall be bound, and they are hereby authorized and required to receive and safely keep, until duly discharged, all persons committed to their charge by the said Corporation, or any member thereof, under the authority thereof.

Sheriff to obey
warrants of
commitment.

XXXVIII. And be it enacted, That notwithstanding the privileges that may be conferred by this Act, the Legislature may at any time hereafter in their discretion make any such additions to this Act, or such alteration of any of its provisions, as they may think proper.

Act may be
amended.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. LXXII.

An Act to amend the Act of Incorporation of the Town of Cornwall, and to establish a Town Council therein, in lieu of a Board of Police.

[9th June, 1846.]

WHEREAS an Act was passed by the Parliament of Upper Canada, in the fourth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to establish a Police in the Town of Cornwall in the Eastern District*; And whereas it is found that the provisions of the said Act are insufficient, and it is expedient for the better protection and management of the local interests of the inhabitants that the said Act should be amended: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the twenty-eighth clause of the said recited Act establishing a Police in the Town of Cornwall, and such other parts of the said Act, and all other Act or Acts or Laws now in force, as are repugnant to or inconsistent with the provisions of this Act be, and the same are hereby repealed.

Preamble.
Act of U. C.
4 Will. 4. c.
25, cited.

The 28th
clause of the
said Act, and
all other Acts
inconsistent
with this Act,
are hereby re-
pealed.
Name of Pre-
sident and
Board of Po-
lice of Corn-
wall changed,
and new pow-
ers granted.

II. And be it enacted, That after the passing of this Act, the name and style of the President and Board of Police of Cornwall, shall be changed to that of *The Mayor and Town Council of the Town of Cornwall*, by which name it shall hereafter be known, and as such shall have perpetual succession and a common seal, with power to break, renew, change and alter the same at pleasure, and shall be capable of suing and being sued, and of impleading and being impleaded in all Courts of Law and Equity, and other places, in all manner of actions, causes and matters whatsoever, and of accepting, taking, purchasing and holding goods and chattels, lands and tenements, real and personal, moveable and immoveable estates, and of granting, selling and alienating, assigning, demising and conveying the same, and of entering into and becoming a party to contracts, and of granting and accepting any bills, bonds, judgments or other instruments or securities for the payment or securing of the payment of any money borrowed or lent, or for the performance or securing the performance of any other duty, matter or thing whatsoever: Provided always, that such change of the corporate name shall not be construed to make the said Corporation a new Corporation, but merely to continue the former Corporation with another name and with new powers; and whenever in any

Proviso: Such
change of
name not to
make the Cor-
poration a new
Act

poration a new
one, &c.

Act or provision of Law remaining in force, the name of *The President and Board of Police of Cornwall* occurs, the same shall be construed hereafter as if instead of the said name that of *The Mayor and Town Council of the Town of Cornwall*, had been inserted.

The Town to
be divided into
three Wards.

III. And be it enacted, That the said Town shall be and the same is hereby divided into three Wards, to be called respectively the East Ward, the West Ward, and the Centre Ward.

East Ward.

IV. And be it enacted, That the East Ward shall consist of all that part of the said Town which lies between Amelia street and the eastern limits of the said Town.

West Ward.

V. And be it enacted, That the West Ward shall consist of all that part of the said Town which lies between Augustus street and the western boundary of the said Town.

Centre Ward.

VI. And be it enacted, That the Centre Ward shall consist of all that remaining part of the said Town which lies between Amelia street and Augustus street, and not included in either of the before mentioned Wards.

East and West
Wards to elect
each two
Members, and
Centre Ward
three, annu-
ally.

VII. And be it enacted, That the East and West Wards respectively, shall elect annually two persons, and the Centre Ward shall elect annually three persons to be members of the said Town Council, from among the persons at present eligible for the office of member of the Board of Police, or persons who being subjects of Her Majesty have built a dwelling house on leasehold property and residing therein, which would *bond fide* rent for thirty pounds, currency, per annum.

Majority of
Members to
elect Mayor.

VIII. And be it enacted, That the members of the said Town Council so elected, or a majority of them, shall choose one of their number to be Mayor, who shall hold his office for one year, or until his successor be appointed, but may be capable of re-election.

Persons enti-
tled to vote.

IX. And be it enacted, That the persons entitled to vote at any of the Wards for the election of such members, to serve in the said Town Council, shall be the persons now entitled to vote for members of the Board of Police, and also such non-resident freeholders in the said Town on whose land a dwelling house shall be erected as would at present be entitled to vote if they were resident householders therein.

Legislative
power vested
in Mayor and
Council.

X. And be it enacted, That the Legislative power of the Town of Cornwall shall be and is hereby vested in the Mayor and Council, who together shall form the Town Council.

Legislative
Acts of the
Town how
enacted.

XI. And be it enacted, That every legislative act of the said Town be expressed to be enacted by the Mayor and Town Council of Cornwall in Council assembled.

Majority to be
a quorum for
dispatch of
business.

XII. And be it enacted, That a majority of the said Town Council shall be a *quorum* for the despatch of business: Provided always, that a smaller number may adjourn from time to time, and are hereby authorized to compel the attendance of absent members in such manner, and under such penalties as may be provided by an Act of the said Town Council.

Proviso.

XIII. And be it enacted, That any rate or assessment with which any real estate within the said Town may be legally rated or assessed, may be exacted and recovered either from the owner of the real property so rated or assessed or from any person occupying the same or any part thereof, either as a tenant or otherwise; and when any such rate or assessment shall be paid by any tenant, not bound to make such payment by the lease or other agreement under which he holds or occupies such real estate, such tenant shall have the right to deduct the sum so paid by him from the rent payable by him in respect of the enjoyment or occupation of the real estate so rated or assessed.

Rates or assessments may be recovered from owner or occupier of real property.

XIV. And be it enacted, That in all cases where the person who shall be rated in respect of any vacant ground or other real property within the Town, shall not reside within the said Town, and the rates and assessments payable in respect of such vacant ground or property shall remain due and unpaid for the space of four years, and no sufficient distress shall be found therein, then and in such case it shall and may be lawful for the said Town Council to issue a Precept to the Sheriff of the Eastern District, commanding him to sell and dispose of such property by public sale, or so much thereof as shall be necessary for the payment of the arrears of taxes, together with all costs accruing by reason of such default, and the Sheriff is hereby authorized and required to dispose of such property as is herein directed: Provided always, that no property shall be sold without having been first advertised in a public newspaper, published in the Eastern District for the three months next preceding such sale; and all owners of property sold under the authority of this clause in this Act, shall be allowed to resume possession of the same within the space of twelve months next after the date of such sale, on paying or tendering to the purchaser the full amount of the purchase money with legal interest thereon, together with the costs attendant upon the default and sale, with an addition of twenty-five per centum on the purchase money.

Proceedings when any person rated in respect of vacant ground shall not reside within the Town, and assessments due by him shall remain unpaid, &c.

Proviso—No property to be sold without having been advertised three months before sale.

XV. And be it enacted, That the Sheriff and Gaoler of the Eastern District shall be bound, and they are hereby authorized and required to receive and safely keep until duly discharged, all persons committed to their charge by the said Town Council or any member thereof, under the authority thereof.

Duty of Sheriff and Gaoler with respect to parties committed to their charge by Town Council.

XVI. And be it enacted, That the said Town Council of Cornwall shall have full power and authority in addition to the powers heretofore vested in the Board of Police, and now transferred to them, and which may not be hereafter enumerated, from time to time to make, revise, alter and amend, administer and enforce such By-laws as they may deem proper and necessary for making, gravelling, flagging, paving, ditching, levelling, raising, repairing, mending, lighting, macadamizing and changing any of the streets, squares, alleys, lanes, walks, side-walks, cross-walks, roads, highways, bridges, wharves, docks, quays and sewers (such wharves, docks or quays being the exclusive property of the said Corporation) now laid out or erected within the limits of the said Town, and to impose a reasonable toll on vessels touching at such wharves, docks or quays; to regulate and license ale houses, victualling houses and ordinaries, where fruit, victuals and liquors, not distilled, are sold to be eaten and drunk in such houses, or on the street, or in groceries, and to limit the number of them, at such rates as they may think fit, the proceeds of such license to form part of the public funds of the said Town; to prevent the sale of any strong or intoxicating drink to any child, apprentice or servant, without the consent of his, her or their legal protector; to regulate the weighing of hay and measuring of wood; to regulate carts and carters, and to punish inhuman treatment

Additional powers conferred on Town Council of Cornwall.

Additional
powers con-
ferred on the
Town Council.

treatment of any animals by excessive beating or otherwise; to regulate or prevent slaughter houses, tanneries and all other factories; to prevent the firing of any guns, pistols, muskets, squibs or fire balls; to suppress tippling houses, and restrain persons from keeping the same; to prevent or regulate bathing or swimming in and about the docks, wharves, slips and shores within the limits of the said Town and in front thereof; to enforce the due observance of the Sabbath day; to regulate, license, or suppress all public billiard tables, roulette tables, all games and ball alleys, as well as any species of gambling or gambling apparatus; to regulate and license all theatres kept for profit; auctioneers, butchers, hawkers, pedlars, hucksters, and all persons exhibiting for gain or profit any puppet-show, wire dance, circus riding and circus riders, and all other shows, and to provide for the licensing the same; to prevent and punish parties engaged in charivaries; to prevent the injuring or destroying of trees planted or growing for show or ornament in the said Town; to prevent the pulling down or defacing of sign boards; to prevent and punish breaches of the peace, and generally to prevent and punish vice, drunkenness, profane swearing, obscene language and every other species of immorality, and to preserve good order in the said Town; to enter into and examine all dwelling houses, warehouses, shops, workshops, distilleries, manufactories, yards and out-houses, to ascertain whether any such places are in a dangerous state with respect to fire or otherwise, and to direct them to be put in a safe and secure condition; to enforce the sweeping and cleaning of chimnies, and to regulate and license chimney sweeps; to appoint fire wardens and fire engineers; to appoint and remove firemen; to make such Rules and By-laws as may be thought expedient for the conduct of such fire companies as may be raised with the sanction of the said Town Council; to compel any person to aid in the extinguishing of fires; to require the inhabitants of the said Town to keep fire buckets, and to provide and keep scuttles and ladders to their houses; to regulate and enforce the erection of party walls; to regulate the manner of depositing and keeping ashes at the time they are taken from the fire places; to regulate the keeping and transporting of gunpowder or other dangerous or combustible material; to make, preserve and regulate public wells and cisterns, and other conveniences for the stopping or preventing fires; to prevent the extension and ravages of fire by pulling down adjacent buildings; to stop or authorize any other person to stop any immoderate riding or driving in any street in the said Town, or riding or driving or drawing or tying any horse or horses, or sleigh or wagon or carriage or cart, or any vehicle on any of the side-walks in the said Town, and to inflict fines for any such offence; to regulate the assize of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto; to prevent and abate and remove any nuisance; to regulate the market and the buildings, avenues, passages and appurtenances thereunto belonging, and to make rules and regulations for the good order and government thereof; to regulate or restrain any horses, cows, oxen and other cattle, sheep, goats, swine and other animals, geese and other poultry from running at large within the limits of the said Town; to prevent and regulate the running at large of dogs, and to impose a reasonable tax on the owners or possessors thereof; to prevent and remove encroachments, buildings, fences, or any thing else of whatsoever nature in any street; to establish and regulate one or more pounds; to require the road labour of the said Town to be commuted for money, and such money to be paid to the Treasurer of the said Town Council, to be at the disposal of the said Town Council for the purpose of improving the public highways of the said Town; to provide for the registration of voters under this Act; to establish, endow and regulate one or more public Schools; to establish one or more public libraries; to promote and encourage literary, scientific and agricultural institutions;

institutions; to regulate public hospitals; to establish and support a House of Industry, and enforce labour and discipline in the same, and generally to make all such laws as may be necessary and proper for carrying into execution the powers hereby vested or hereafter to be vested in the said Town Council or in any department thereof, for the peace, welfare, safety and good government of the said Town, as they may from time to time deem expedient, not repugnant to the laws of this Province except in so far as the same may be virtually repealed by this Act: Provided always, that no person shall be subject to be fined more than five pounds, nor less than five shillings for the breach of any By-law or Regulation of the said Town, and in default of payment of such fine, to be imprisoned in the Common Gaol of the Eastern District for a period not longer than two calendar months.

Additional powers conferred on the Town Council.

Proviso—
Fines and imprisonment limited.

XVII. And be it enacted, That all the penalties recovered under the provisions of this Act shall be paid into the Treasury of the said Town Council, and the proceeds of all Licenses granted under this Act, and any income of whatsoever nature, shall form part of the public funds of the said Town; any law or usage of this Province to the contrary notwithstanding, and shall be applied in the same manner as other monies coming into the said Treasury may be applied for the public uses of the said Town.

Penalties to be paid into Treasury of Town Council.

XVIII. And be it enacted, That the members of the said Town Council shall by virtue of their Office be Justices of the Peace in and for the said Town, and exercise within the limits thereof, the authority now given by law to Justices of the Peace; Provided always, that nothing in this Act shall be construed to give the members of the said Town Council any right or authority to sit, act, or in anywise interfere in any Court of General or Adjourned Quarter Sessions, and that it shall and may be lawful for any person or persons to appeal to the Court of Quarter Sessions in the same manner as is now provided by law, from any conviction of one or more members of the said Town Council, when such conviction shall have been made in the exercise of their Magisterial duty, and apart from the enforcement of any By-law or Regulation; Provided also, that if any action or suit shall be brought against any member of the said Town Council, for any thing done by him as a Justice of the Peace as aforesaid, he shall be entitled to, and receive the same notice of action as is now required to be given to Justices of the Peace in other cases.

Members of Town Council to be *ex officio* Justices of the Peace.

Proviso—
They shall have no authority to sit in any Court of Quarter Sessions.

Proviso.

XIX. And be it enacted, That nothing in this Act contained, shall deprive or be construed to deprive the qualified inhabitants of the Town of Cornwall of their right to be represented in the Municipal Council of the Eastern District.

Inhabitants of Cornwall to be still represented in the District Council.

XX. And be it enacted, That the first election of Members of the Town Council under this Act, shall be holden on the second Monday in January next, after the passing of this Act, and that the Members thereof so chosen as aforesaid, shall remain in Office until a new Council shall be chosen and formed, and that on the second Monday in January, in each and every year thereafter, an election shall be holden in each and every Ward of the said Town for choosing Members of the said Corporation according to the general provisions of the Act of Incorporation hereby amended.

First election of Members of Town Council when to be held.

XXI. And be it enacted, That all and every the Rules, Orders, Regulations and Acts of Authority for, touching or concerning the affairs of the Town of Cornwall, which may be in force at the time of the passing of this Act, shall continue, be and remain

Rules, &c., now in force to remain so until repealed

by Town
Council.

remain in full force and virtue until the same shall be rescinded, repealed or altered by the Town Council of the Town of Cornwall or other competent legal authority, and all Officers appointed by the President and Board of Police of the said Town, shall continue to act in the same capacity as heretofore, and with the same remuneration for their services until removed by the Town Council, or reappointed under the provisions of this Act.

Present Mem-
bers to remain
in office until
Town Council
be constituted
under this
Act.

XXII. And be it enacted, That until the first Town Council of the Town of Cornwall shall be constituted under the provisions of this Act, the President and Members of the Board of Police of the Town shall remain in Office, and when the said Town Council shall be constituted, they shall go out of Office, and their whole duties and powers shall cease, but nothing in this Act shall prevent any Member of the Board of Police of the said Town from being a Candidate at the first election for Town Councillors.

Bailiffs, &c., to
be appointed
for first elec-
tion.

XXIII. And be it enacted, That the President and Board of Police shall, and they are hereby authorized and required to take the necessary steps by appointing a sufficient number of Bailiffs and otherwise, for holding the first election of Town Councillors under this Act, and according to the spirit, intention and meaning thereof.

Interpretation
clause.

XXIV. And be it enacted, That whenever the word person or persons is used in this Act, it shall be held to comprehend a body politic or corporate as well as an individual, and every word importing the singular number shall when necessary be deemed to extend to several persons or things, and every word importing the masculine gender shall when necessary extend to a female as well as a male, and the converse, unless there be something in the subject or context repugnant to or inconsistent with such construction: And whenever power is by this Act given to any Officer or Functionary to do or enforce the doing of any Act, all such powers shall be understood to be also given as shall be requisite to enable such Officer or Functionary to do or enforce the doing of such Act: And generally all other words, terms and phrases in this Act shall receive such fair and liberal interpretation as shall be best adapted to give full effect to this Act, according to its true intent, meaning and spirit.

Public Act.

XXV. And be it enacted, That this Act as well as the said recited Act incorporating the Town of Cornwall, shall be taken and held to be a public Act, and shall be judicially taken notice of by all Judges, Justices and others without being specially pleaded.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXXIII.

An Act to alter and amend the Act incorporating the Town of Hamilton,
and to erect the same into a City.

[9th June, 1846.]

WHEREAS from the increase of the population and commerce of the Town of Hamilton, in the District of Gore, a more efficient system of Police and Municipal Government than that now established therein is required; And whereas it is advisable to extend the limits thereof and to erect the said Town into a City, and to have its affairs managed by a Mayor and Common Council: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That an Act passed by the Parliament of Upper Canada, in the third year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to define the limits of the Town of Hamilton, in the District of Gore, and to establish a Police and Public Market therein*, and all other Acts and parts of Acts repugnant to or inconsistent with the provisions of this Act, be, and the same are hereby repealed: Provided always, that the repeal of the said Acts and parts of Acts shall not be held to revive or give any force or effect to any enactment which has by the said Acts or any of them been repealed or determined.

Preamble.

U. C. 3 Will.
4. c. 16, re-
pealed.

Proviso.

II. And be it enacted, That the inhabitants of the City of Hamilton as hereinafter described and their successors, inhabitants within the limits of the same, shall be and they are hereby constituted a body politic in fact and in name, by and under the name of the City of Hamilton, and as such shall have perpetual succession and a common seal, with power to break, renew, change and alter the same at pleasure, and shall be capable of suing and being sued, and of pleading and being impleaded in all Courts of Law and Equity and other places, in all manner of actions, causes and matters whatsoever, and of accepting, taking, purchasing and holding goods and chattels, lands and tenements, real and personal, moveable and immoveable estates, and of granting, selling and alienating, assigning, demising and conveying the same, and of entering into and becoming a party to contracts, and of granting and accepting any bills, bonds, judgments or other instruments or securities for the payment or securing of the payment of any money borrowed or lent, or for the performance or securing the performance of any other duty, matter or thing whatsoever.

Inhabitants of
City of Hamil-
ton constitut-
ed a body
politic.
Corporate
powers.

III.

Limits of the
City of Ham-
ilton.

III. And be it enacted, That the City of Hamilton shall consist of all that part of the District of Gore which lies within the following limits, that is to say: commencing at the north-east corner of Lot Number Twelve, in the Township of Barton, on the waters of Burlington Bay; thence following the line between the said Lots Number Twelve and Number Eleven in a southerly direction to the rear of the third concession of the said Township of Barton; thence along the said concession westerly to the intersection of the line between Lots Numbers Twenty and Twenty-one of the said Township; thence in a northerly direction following the said line between the said Lots Numbers Twenty and Twenty-one until it reaches the marsh at the head of Burlington Bay; thence along the southerly and easterly margin of the said marsh to the waters of Burlington Bay; thence along the southerly margin of Burlington Bay to the place of beginning, including the several Road allowances along the said boundary, and the harbour in front of the said Town.

City divided
into five
Wards.

IV. And be it enacted, That the said City shall be, and the same is hereby divided into five Wards, in manner following, that is to say: that the continuation of the street now known in the said Town as King Street to the easterly and westerly limits of the said City, shall, together with the said King Street, be called King Street, and all that part of the said City lying south of King Street and west of John Street shall comprise the first Ward, and shall be called Saint George's Ward; all that part lying south of King Street and east of John Street shall comprise the second Ward, and shall be called Saint Patrick's Ward; all that part lying north of King Street and east of John Street shall comprise the third Ward, and shall be called Saint Lawrence Ward; and all that part lying north of King Street and between John and Macnab Streets shall comprise the fourth Ward, and shall be called Saint Andrew's Ward; and all that part of the said City lying north of King and west of Macnab Streets shall comprise the fifth Ward, and shall be called Saint Mary's Ward, of the said City.

Bay in front of
the City, vested
in City
Council.
Proviso as to
works upon the
Bay.

V. And be it enacted, That all of the Bay to the opposite shore thereof lying in front of the said City shall vest in the City Council of the said City, and their successors legally constituted. Provided always, that it shall not be lawful for the City Council to erect any building or to construct any work whatever within the limits or upon any part of the said Bay so vested in the said City Council, unless the said City Council be authorized so to do by the Governor in Council or by the Commander in Chief of Her Majesty's Forces in this Province, or unless the erection of such building or the construction of such works be consented to by the Principal Officers of Her Majesty's Ordnance.

Mayor and
Councillors to
be chosen.

VI. And be it enacted, That there shall be chosen and elected in manner hereinafter mentioned, one fit person who shall be and be called the Mayor of the said City, and a certain number of fit persons who shall be and be called Councillors of the said City, and such Mayor and Councillors for the time being shall be and be called the City Council.

Two Council-
lors to be elect-
ed for each
Ward.

VII. And be it enacted, That for every Ward within the limits of the said City, two Councillors shall be chosen annually, in manner hereinafter mentioned, and the said Councillors so elected shall choose one other fit and proper person duly qualified as Councillor, and in case it shall happen that the votes shall be equally divided in the election of such other Councillor, then that Councillor who shall have been rated on the

the assessment list of the City for the previous year for the greatest amount of property, shall give a second or casting vote and determine the election, and upon such choice being made and such Councillor being present, the said Councillors shall proceed to choose from amongst themselves, by vote of a majority of such Councillors, one of their number to be the Mayor of the City, and the said Mayor shall be so chosen on the Saturday next after the Annual Ward Election, and shall hold office for one year, or until his successor be appointed, but may be capable of being re-elected.

VIII. And be it enacted, That no person shall be eligible to be elected Councillor of the City, unless he shall have been a resident householder within the City or such part of the adjacent County of Wentworth as may be distant not more than three miles from the Market Square at the corner of York and James Streets in the said City, for two years next before the election, and being so resident at the time of the election, shall at the time be possessed to his own use and benefit of real property within the City, in freehold, which shall be assessed under the then last assessment list at forty pounds or upwards of annual value, or shall be so possessed of real property, for a term of years, or from year to year, which shall be assessed as aforesaid at fifty pounds or upwards of yearly value, or shall be in the receipt of fifty pounds or upwards of yearly rent or profit accruing from or out of real property within the City.

Qualification
of Councillors.

IX. And be it enacted, That no person shall be eligible to be elected a Councillor of the said City, or to vote at any Corporation election, who shall not be a natural-born or naturalized subject of Her Majesty, Her Heirs or Successors, and of the full age of twenty-one years at the time of being enregistered as hereinafter mentioned.

Aliens and
Minors not to
be Councillors.

X. And be it enacted, That the Councillors of the City shall be elected respectively by the majority of votes of such enregistered male resident inhabitants of the City as shall have actually paid their taxes due at the time of their being enregistered as voters, or have paid the same at least one month before such election, and as shall be possessed three months next before the twenty-fourth day of December, in the year next preceding the election, of a Town lot assessed at the yearly value of five pounds currency, or as shall be possessed as aforesaid, in freehold, or as tenant for a term of years, or from year to year, of a Town lot or dwelling house situate within the ward for which the election shall be holden, assessed at the yearly value of ten pounds currency or upwards, or as shall be *bona fide* owners of a dwelling house situated as aforesaid, built upon ground leased for a term of not less than three years, and assessed at the yearly value of ten pounds currency, or as shall be possessed in freehold or as tenants from year to year or for a term of years of any warehouse, counting house, shop, office, or store, situated as aforesaid, assessed in their own name at the yearly value of twenty pounds currency or upwards, or of such enregistered persons as are resident not more than three miles as aforesaid from the Market Square of the said City, who shall be assessed as aforesaid to the amount of fifty pounds currency or upwards: Provided always, that the yearly value and assessment of the premises aforesaid shall be ascertained from the then last Town or City Assessment List; And provided also, that every yearly tenant as aforesaid paying a rent of ten pounds currency per annum for his own use and benefit shall be allowed to vote, whether his premises have separate entrance from or communication to the street or not; And provided also, that no person shall vote at any such election who has not been a resident inhabitant of the City or within the distance of three miles as aforesaid for a period of twelve calendar months next

Qualification
of Voters.

Proviso.

Proviso.

Proviso.

Proviso.

next before the time of his being registered as a voter: Provided always, and it is hereby declared, that it shall not be lawful for any resident inhabitant of the said City of Hamilton to vote at any of the Township elections of the Township of Barton.

Councillors to be chosen annually on the second Tuesday in January.

Mode of proceeding at elections.

Casting vote of Returning cer.

Proviso.

XI. And be it enacted, That the Councillors shall be chosen annually in each of the said Wards on the second Tuesday in January by the qualified registered voters, who shall openly assemble for the purpose, and the name of each elector voting at such election shall be written in a Poll List, to be kept at such election by the Returning Officer or his Clerk, and at the final close of the Poll, the Returning Officer shall declare the number of votes given for each Candidate, and shall also declare those persons having the majority of votes in their favour to be duly elected Councillors as the case may be, and in case of the equality of votes for two or more persons at the close of the Poll, it shall be lawful for the Returning Officer, and he is hereby required whether otherwise qualified or not, to give a casting vote for one of the persons having such equality of votes and so determine the election; and the Poll Lists, so kept, shall by three o'clock in the afternoon of the day after the election be delivered by the Returning Officer, with the return thereon, to the City Clerk: Provided always, that no Returning Officer (except as aforesaid) or his Clerk shall vote at any such election.

Mayor *ex officio* a Justice of the Peace.

XII. And be it enacted, That the Mayor of the said City for the time being shall, by virtue of his office, be a Justice of the Peace in and for the said City.

Salary of Mayor.

XIII. And be it enacted, That it shall and may be lawful for the Council, if they shall see fit so to do, to give and grant to the Mayor for the time being, in lieu of all fees and perquisites, such salary not exceeding one hundred pounds, as they shall think fit, payable out of the revenues of the City.

Legislative power of Hamilton vested in Council thereof, and style of enactment of By-laws.

Majority of members of Council to be a *quorum*.

Proviso: a smaller number may adjourn, &c.

Proviso.

XIV. And be it enacted, That the Legislative power of the City of Hamilton shall be and is hereby vested in the Council to be composed of the Mayor and Councillors as aforesaid, and every Legislative Act of the said City shall express to be enacted by the *City Council of the City of Hamilton*.

XV. And be it enacted, That a majority of the Members of the Council, including the Mayor or presiding Councillor, shall compose a *quorum* for the despatch of business; and that in case of the absence of the Mayor, the assembled Councillors shall choose one of their number to be their Chairman: Provided always, that a smaller number may adjourn from time to time, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as may be provided for by a By-law of the Council: And provided also, that no such *quorum* shall be constituted without the presence of at least four Councillors.

Registry of Voters provided for.

XVI. And whereas a provision for the registry of voters has been found equitable and convenient: Be it enacted, That before the first day of November in every year, the Assessor of each Ward shall make out from the last Assessment Roll an alphabetical list of the voters qualified to vote at the election of Councillors in that Ward, to be called the "Voters' List," to which he shall add the names of all such persons not on the said Assessment Roll as he knows are then entitled to vote at such election according to the provisions of this Act; and the said Assessor shall sign such list, certifying that it is correct to the best of his knowledge and belief, (and shall also keep a true copy

copy thereof,) which list he shall deliver to the City Clerk, to be by him submitted to the Board of Revision.

XVII. And be it enacted, That the said list shall be hung up in the City Hall, or the place where the usual sittings of the City Council shall be held, for the examination of all concerned, at reasonable hours, from the first day of November to the first day of December, of which fact the City Clerk shall give immediate public notice, either by printed placards or by advertisement in not less than three, if there shall be so many, of the City newspapers, and any person who shall claim to be added to the said Voters' List, or any elector who shall desire to have any name expunged therefrom, shall prefer his request in writing signed with his name, stating the Ward to which he belongs, and shall cause the same to be delivered to the City Clerk before the said first day of December.

Voters' lists
to be hung up
in City Hall.

XVIII. And be it enacted, That on and before the first Monday in March, in every year, (except the year of the passing of this Act,) the City Council shall choose from among their own number, four Councilmen, who, together with the Mayor for the time being, shall be and constitute a Board of Revisors, any three of whom shall be a *quorum*, to revise the Voters' List as furnished by the Assessors of the various Wards, and decide according to the best of their judgment upon the claims previously made as aforesaid, for the insertion or omission of names in or from the said lists, and which said Board shall, on their first day of meeting, be duly sworn by one Justice of the Peace of the Gore District, well and impartially to perform their duties as such Revisors; and the said Board shall give public notice before their first day of sitting, of the order in which they will take up the Lists of the several Wards, and they shall meet on the first day of December, (or on the day following if that day be a Sunday,) at ten o'clock in the forenoon, for the purpose of hearing persons concerned in making the said claims, and deciding upon them, and shall adjourn from day to day until all the Voters' Lists are revised and settled; and the presiding Officer of the said Board for the time being, shall have power to examine persons upon oath respecting the said claims and all matters connected with the revision of the said Lists; and the said Board, after hearing the best evidence of which the cases will admit, shall and they are hereby required to decide upon, and make the necessary additions or erasures to or from the said Voters' Lists, in relation to the applications before them; and the said Board shall also have power to correct any mistake or supply any accidental omission made by the Assessors in the said Lists; and the said Lists, so revised and settled, shall be signed by the presiding Officer of the said Board, and sealed with the City Seal, and shall be the only correct Voters' List: Provided always, that the said Lists shall be finally completed before the twentieth day of December: And provided also, that no person's name shall be expunged from any of the said Lists without his being informed of the claim to that effect, and having an opportunity to be heard in reference thereto.

Council to ap-
point Revisors.

Their duties.
Times of meet-
ing, &c.

Lists may be
corrected.

Proviso.
Proviso.

XIX. And be it enacted, That the Voters' Lists for each Ward, when so settled and signed, shall be again hung up in the City Hall, or other places as aforesaid, until the day of election, and then filed in the office of the City Clerk, and certified copies thereof under the City Seal shall be by him transmitted to the Returning Officers of the several Wards in the City, not less than five days before any such election; and that every person whose name shall appear in such Ward List shall be entitled to vote at the election for such Ward, without any further enquiry as to his qualification, and without taking

Voters' lists
how disposed
of.

Persons na-
med therein
may vote with-
out any oath

but that of
identity.

taking any oath other than that he is the person named in such List, and has not before voted at such election, which oath the Returning Officer is hereby required and authorized to administer.

Returning
Officers to be
appointed
and sworn.

XX. And be it enacted, That the City Council shall, at least one week before the Annual Ward Elections, appoint under their seal a Returning Officer for each of the Wards, whose duty it shall be to hold the election therein, beginning at ten o'clock in the forenoon, and continuing not later than six o'clock in the afternoon, and who shall give five days previous notice by written or printed placards in at least six different public places in his said Ward of the place where such election is to be held; and the said Returning Officer, previous to the day of the said election, shall be sworn by the Mayor, or any two of the Councilmen, well and faithfully to hold and determine the said election.

Certain per-
sons disqual-
ified and others
exempted from
serving.

XXI. And be it enacted, That no person being in Holy Orders or being a Minister or Teacher of any Dissenting or Religious Sect or Congregation, nor any Judge or Judges, nor any Ministerial Law Officer of the Crown, nor any Military, Naval or Marine Officer in Her Majesty's Service on full pay, nor any person accountable for the City revenues, or holding office under the Council, nor Returning Officer or his Clerk while so employed, shall be capable of being elected a Councillor, neither shall any practising Physician or Surgeon be compelled to serve in either of those offices.

Vacancies
how to be filled.

XXII. And be it enacted, That in case any vacancies shall happen among the Councillors, by death, resignation, removal out of the City for a greater distance therefrom than three miles as aforesaid, or other disqualification, within the first six calendar months of any year, it shall be lawful for the City Council to direct an election to supply such vacancy for the Ward in which the same occurs, and to appoint a time and place for holding such election; and the Returning Officer appointed to such election shall conduct the same in manner hereinbefore provided for the holding of the regular annual elections: Provided always, that at such special election, the persons named in the Voters' List, of the then last previous election shall be the proper voters: Provided always, that no Councillor shall resign his office unless approved by the City Council, under a penalty of twenty pounds.

Proviso: Who
may vote.

Proviso as to
resignations.

Further provi-
sions as to va-
cancies.

XXIII. And be it enacted, That if any of the said vacancies shall occur in the last six months of any calendar year, the vacancy shall be supplied at the regular annual election for that Ward: Provided always, that any person elected to supply the first above mentioned vacancies, shall hold his office only for the residue of the term of office of his immediate predecessor.

Mayor to be
sworn in and
by whom.

XXIV. And be it enacted, That on the day of his election, the Mayor shall be sworn into office by the Judge of the District Court of the Gore District, or in his absence by any two of the Justices of the Peace of the said District, who are hereby required to administer the following oath:

" I do swear that I will well and faithfully discharge the duties of Mayor of the City of Hamilton, to the best of my knowledge and ability."

XXV.

XXV. And be it enacted, That the Councillors on their part shall each take an oath that they will faithfully discharge the duties of their respective Offices, which oath shall be administered at the first meeting after their election, by the Mayor or any other Justice of the Peace of the Gore District.

Councillors to be sworn in and by whom.

XXVI. And be it enacted, That in case of any vacancy in the Office of Mayor, by death, removal out of the City, or to a greater distance therefrom than three miles as aforesaid, or other disqualification, it shall be lawful for the remaining members of the City Council at a special meeting to be summoned by the City Clerk for the purpose, to elect from among the Councillors a successor to such Mayor, who shall hold Office for the remainder of the term of service of his immediate predecessor: Provided always, that a continued absence from his duties for a period of three months shall be deemed a disqualification for Office under this section.

Vacancy in the office of Mayor, how declared and supplied.

Proviso as to absence.

XXVII. And be it enacted, That the City Council shall meet at least on the first Monday in every month, and on such other days as they may appoint: and it shall be lawful for the Mayor to call special meetings, whenever urgent business may require.

Meetings of the Council, when to be held.

XXVIII. And be it enacted, That the Mayor shall preside at all meetings of the City Council, (unless when the Council for the convenience of discussion shall resolve itself temporarily into a Committee of the whole) and on all questions in Council, the said Mayor or presiding Councillor shall not be entitled to vote, unless in case the votes of the remainder of the Council shall be equally divided, when he may give a casting vote and determine the question.

Who shall preside.

Casting vote.

XXIX. And be it enacted, That it shall be lawful for the said Council to appoint from and out of the members thereof, such and so many Committees consisting of such number of persons as they may think fit, for the better transaction of the business before the Council, and for the discharge of such duties within the scope of their powers, as may be by the Council prescribed, but subject in all things to the approval, authority and control of the Council.

Committees may be appointed.

XXX. And be it enacted, That the said Council shall be a Court of Record, and shall have the same power to punish for contempt as is by law vested in any other Court of Record: and the said Council shall have authority to punish its members for disorderly or disgraceful behaviour, by fine, and to expel a member convicted of any crime before a legal tribunal, and the member so expelled shall by such expulsion forfeit all his rights and powers as a Councillor.

Council to be and to have certain powers of a Court of Record.

XXXI. And be it enacted, That the said City Council shall determine the rules of its proceedings, and judge of the qualifications, election, and return of its members, and the said Council shall keep a journal of all business transacted, and during its meetings the doors shall always be kept open, except only when the Council are engaged in discussions relative to the mis-conduct of members of their own body, and in that case the doors shall not be closed unless the closing of the same be approved of by three-fourths of the members present.

Powers of the Council as to its own proceedings and members. Meetings to be open. Exception.

XXXII. And be it enacted, That all Resolutions, Reports and Drafts of By-laws concerning any specific improvement, or the appropriation of any public money, or the

Drafts of By-laws, &c., to be published be-

fore they are
passed.

the taxing or assessing the inhabitants of the said City, shall be published in at least two and not more than three newspapers of the said City, eight days before the same shall be adopted, and whenever the vote is taken on any such Resolution, Report or By-law, the Yeas and Nays shall be recorded on the Journals.

By-laws, &c.,
to be sealed,
enrolled and
kept open to
the public.

XXXIII. And be it enacted, That immediately after any By-law shall be passed by the City Council, it shall be signed by the Mayor, and sealed with the seal of the City, and enrolled; and such By-law shall thenceforth go into effect as a law of the City of Hamilton; and all such laws, together with this Act, and all other Acts of Parliament particularly relating to the said City, shall be entered *verbatim* in one or more books to be procured and kept for that purpose among the Archives of the said City, and be open to the public for inspection at all reasonable hours.

City accounts
to be published
yearly.

XXXIV. And be it enacted, That the said Council shall publish annually in the last week of December, in not less than two nor more than three newspapers of the said City, a detailed account of the state of the Finances of the City, and also a detailed account of the receipt and expenditure of all sums of money that may have been paid into and from the City Treasury during the past year.

City Clerk to
be appointed.

XXXV. And be it enacted, That it shall be lawful for the City Council from time to time to appoint a fit and proper person, not being a Member of the said Council, to be the City Clerk, with such salary as they shall deem proper, and to remove the said Clerk at their pleasure.

City Treas-
urer to be ap-
pointed.

His duties.

He shall give
security.

Penalty for
failure to per-
form his duty.

XXXVI. And be it enacted, That it shall be lawful for the City Council from time to time to appoint a fit and trustworthy person, not being a Member of the City Council or their Clerk, to be the City Treasurer, with such salary or allowance as they shall deem proper, and to remove the said Treasurer at their pleasure; and the said Treasurer shall, at the end of every quarter of the calendar year, render a correct account to the City Council of his receipts and expenditures as Treasurer, showing the balance from the last quarter, and shall give a bond with two sureties conditioned for the due performance of the duties of his Office as required by the said Council, and also that he will publish annually on a day to be fixed by a By-law of the City Council, in all the newspapers of the said City, a detailed account of the state of the Finances of the said City, and also a detailed account of the receipts and expenditures of all sums of money that may have been paid into the Treasurer's hands during the current year; and if the Treasurer shall at any time neglect or refuse so to do, such neglect or refusal shall be held to be a forfeiture of his Office, and to render him incapable of reappointment.

Council to ap-
point Asses-
sors.

XXXVII. And be it enacted, That it shall be lawful for the City Council to appoint annually such and so many Assessor or Assessors for the said City, not to exceed one for each Ward, as they may consider convenient for the public interests, to prescribe the limits in which they shall perform their duties, the securities which they shall give and the remuneration which they shall receive; and the said Assessor and Assessors shall be sworn by the Mayor or presiding Councillor, well and faithfully to perform the duties of their Office.

XXXVIII. And be it enacted, That it shall be lawful for the City Council to provide by a By-law, that all the taxes to be collected in the said City by virtue of this Act shall be paid directly to the City Treasurer at such days and times as they shall appoint; but no person shall be liable to a distress and sale of his or her goods and chattels in default of payment of such taxes, unless the said Treasurer shall have caused to be left at the present or last place of abode of such person, a written or printed notice stating the amount of such taxes, and demanding payment thereof, fourteen days before the Warrant to distress for such taxes shall issue.

Council to appoint the time at which taxes shall be paid.

Notice to precede distress for taxes.

XXXIX. And be it enacted, That it shall be lawful for the City Council from time to time to appoint one City Surveyor, one City Bailiff, one City Inspector, one Harbour Master, one or more Inspectors of Lumber, Beef, Pork, Flour, Pot and Pearl Ashes, one Chimney Viewer, one or more Pound Keepers, and one or more Clerks of the Market or Markets, one Chief Constable of Police, and as many sub-Constables or other Constables as may be necessary, with such salaries, wages and allowances as the said Council shall consider proper, and who shall hold their situations during pleasure, and which City Bailiff, Chief Constable and other Constables may be sworn in by the Mayor or any other Justice of the Peace of the Gore District, and shall by virtue of their Office be Constables of the Gore District.

Council to appoint certain other Officers.

XL. And be it enacted, That every City Clerk, City Treasurer or other Officer appointed by the City Council shall, whenever required at such times during the continuance of his Office or within three months after the expiration thereof, and in such manner as the said Council shall direct, deliver to the Council or such person as they shall authorize for that purpose, a true account in writing of all matters committed to his charge as such Officer, and also of all monies which shall have been by him received as such Officer, or by virtue, or for the purposes of this Act, and how much thereof shall have been paid and disbursed and for what purposes, together with proper vouchers of such payments, and also a list of the names of all such persons as shall not have paid the monies due from them by virtue of and for the purposes of this Act, and of the amount due from each of them; and every such Officer shall pay all such monies as shall remain due from him to the Treasurer for the time being, or to such person as the said Council shall authorize to receive the same; and if such Officer shall refuse or wilfully neglect to deliver such account, or the vouchers relating to the same, or such list as aforesaid, or to make payment as aforesaid, or shall refuse or wilfully neglect to deliver to the said Council, or to such person as they shall authorize, within three days after being thereunto required by notice in writing under the hand of the City Clerk, to be given to, or left at the last place of abode of such Officer, all books, papers, maps, plans and writings in his custody or power, relating to his duties, or the execution of this Act, or to give satisfaction to the said Council, or to such other person as aforesaid, respecting the same, then and in every such case, upon complaint made on behalf of the said Council by such person as they shall authorize for that purpose, of any such refusal or wilful neglect as aforesaid, to any Justice of the Peace, not a Member of the Council, acting for the District or other jurisdiction wherein such Officer so refusing or neglecting shall be or reside, such Justice is hereby authorized and required to issue a Warrant under his hand and seal for bringing such Officer before any two of the Justices of the Peace for such District or jurisdiction, and upon the said Officer appearing or not being found, it shall be lawful for such Justices to hear and determine the matter in a summary way, and if it shall appear to such Justices that any

City Officers bound to account to the Council.

And to pay over monies.

Mode of constraining them to do so if they shall neglect or refuse.

any monies remain due from such Officer, such Justices may and they are hereby authorized and required upon non-payment thereof, by Warrant under their hands and seals, to cause such monies to be forthwith levied by distress and sale of the goods of such Officer, and if sufficient goods shall not be found to satisfy the said monies and the charges of the distress, or if it shall appear to such Justices that such Officer has refused or wilfully neglected to deliver such account, or the vouchers relating thereto, or such list as aforesaid, or that any books, papers, maps, plans or writings as aforesaid, remain in his hands or in his custody or power, and that he has refused or wilfully neglected to deliver the same or to give satisfaction concerning them, then and in every such case such Justices shall and they are hereby required to commit such offender to the Gaol or House of Correction for the District or jurisdiction where such offender shall be or reside, there to remain without bail until he shall have paid such monies as aforesaid, or until he shall have compounded with the said Council for such monies, and shall have paid such composition in such manner as they shall appoint, (which composition the said Council are hereby empowered to make and receive,) or until he shall have delivered a true account as aforesaid, together with such vouchers and lists as aforesaid, or until he shall have delivered up such books, papers, maps, plans and writings, or have given satisfaction in respect thereof to the said Council, or to such other person as aforesaid, as the case may be : Provided always, that no person so committed shall be detained in prison for want of sufficient distress only, for a longer space of time than three calendar months ; Provided also, that nothing in this Act contained shall prevent or abridge any remedy by action against any such Officer so offending as aforesaid, or against any surety for any such Officer, but such Officer shall not be sued by action, and also proceeded against in a summary manner by virtue of this Act for the same cause ; And provided also, that the provisions of this section shall be and are hereby made applicable to all the Officers at present serving under the authority of the President and Board of Police of the Town of Hamilton.

Proviso as to term of imprisonment.

Proviso : other remedies not to be affected.

Proviso : this section to apply to present Officers.

Board of health may be established. Its powers.

Act of U. C. cited.

Council may make By-laws for certain purposes.

Streets and public places.

XLI. And be it enacted, That it shall and may be lawful for the City Council from time to time to appoint so many of the members thereof, or other fit and proper persons, as they shall deem proper, to form a Board of Health to aid and assist the Mayor of the City to carry into effect the provisions of the By-laws which now are or may be passed to preserve the health of the said City, and to prevent the introduction and spreading of infectious and pestilential diseases in the same ; and the said Board in conjunction with the Mayor shall have the like power and authority for the purposes aforesaid, as are vested in the Boards of Health established under the provisions of an Act passed in the Parliament of Upper Canada, in the third year of His late Majesty's Reign, intituled, *An Act to establish Boards of Health, and to guard against the introduction of malignant, contagious and infectious diseases in this Province.*

XLII. And be it enacted, That the said City of Hamilton shall by its representatives, in whom the Legislative power of the City shall be vested as herein mentioned, have full power and authority from time to time to make, revise, alter, amend, administer and enforce such By-laws as they may deem proper for the several purposes following, that is to say :

First. For making, levelling, flagging, paving, macadamizing, raising, repairing, lighting, watching, planting and cleaning any of the streets, squares, lanes, walks, side-walks, crossings, roads, bridges wharves, docks, slips, sewers, and shores now laid out and erected,

erected, or being or hereinafter to be laid out and erected within the limits of the City, and to regulate or prevent the encumbering, injuring or fouling of the same by any animals, vehicles, vessels, craft, lumber, building or other materials or things, or in any way whatsoever, and for the establishing, making and regulating public fountains, pumps and wells.

Fountains and wells.

Second. For directing and requiring the removal at any time of any door steps, porches, railings or other erections, projections or obstructions whatsoever, which may project into or over any public street, square or road, at the expense of the proprietors of the real property in or near which such projection or obstruction may be found.

Removing encroachments.

Third. For surveying by competent persons, and fixing, marking, determining, and settling the boundary lines of the various streets, squares and roads of the said City; to give names for the said streets, and to affix boards containing such names on the houses at the corners thereof.

Marking out and naming streets, &c.

Fourth. For defraying out of the funds of the said City, if necessary, the expense of lighting the same or any part thereof with gas, oil or other substances, and the performing of any kind of work required for the purpose, and for obliging the proprietors or occupiers of real property to allow such work to be done and fixtures placed in and about their premises as may be necessary, such work and fixtures to be done at the expense of the City.

Lighting the City.

Fifth. For assessing the proprietors of real property, immediately benefited by such improvements, for such sum or sums as may at any time be necessary to defray the expense of making or repairing any common sewer, drain, flagging, posts or pavement in any public street, square or place, and for regulating the time and manner in which such assessment shall be collected and paid.

Assessment for local improvement.

Sixth. To regulate and manage the present markets, and to establish, regulate and manage any new market, to regulate the place and manner of selling and weighing hay, straw, fodder, wood, lumber and fish; to restrain and regulate the purchase and manner of selling of all vegetables, fruit, country produce, poultry, and all other articles, or things, or animals exposed for sale, or marketed in the open air; to restrain and regulate the purchase of any such things by hucksters and runners within the City, and one mile distant from the outer limits thereof; to regulate the measurement, length and weight of coal, lime, shingles, lath, cord wood, and other fuel, and to impose penalties for light weight, or short count or measurement in any thing marketed; to have the exclusive right of regulating weights and measures in the markets, and within the said City, according to the lawful standard, and to seize and destroy such as are not according to the standard; to regulate all vehicles, vessels and other things in which any thing may be exposed for sale or marketed in any street or public place, and for imposing a reasonable charge or duty thereon, and establishing the mode in which it shall be paid; to seize and destroy all tainted and unwholesome meat, poultry, fish or articles of food, and to distrain butchers' meat for the rent of market stalls, and sell the same after six hours notice.

Markets—and things sold in markets, streets or public places.

Seventh. To regulate the harbour and vessels, craft, and rafts arriving in it; to impose and collect such reasonable harbour dues thereon as may serve to keep the harbour

Regulating and improving the Harbour.

in

in good order, and provide for the payment of a Harbour-Master and the erection and maintenance of a beacon therein; and to regulate and provide for the erection and rent of wharves, piers and docks in the said harbour.

Assize of bread.

Eighth. To regulate the assize and price of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Enforcement of morality, decency and good order, &c.

Ninth. To enforce the due observance of the Sabbath; to prevent vice, immorality and indecency in the streets and other public places, and to preserve peace, health and good order; to prevent the excessive beating or cruel and inhuman treatment of animals; to prevent the sale of any intoxicating drink to children, apprentices or servants without the consent of their legal protectors; to impose penalties on the keepers of low tippling houses, visited by dissolute and disorderly characters; to license and regulate victualling houses or other houses of refreshment where spirituous liquors are not sold; to license, regulate or prevent billiard tables, bowling alleys or other places of amusement; to restrain or suppress gambling houses, and to enter into them and seize and destroy *rouge et noir* and *roulette* tables, and other devices for gambling; to restrain and punish all vagrants, drunkards, mendicants and street beggars; to restrain or regulate the licensing of all exhibitions of natural or artificial curiosities, theatres, circuses or other shows or exhibitions for hire or profit.

Gambling.

Begging.

Public shows.

Pounds.

Dogs.

Nuisances.

Slaughter houses, &c.

Odd noises.

Fast driving.

Bathing.

Tenth. To establish and regulate one or more Pounds and the fees to be taken thereat, and to restrain and regulate the running at large of horses, cattle, swine, goats, dogs, geese and poultry, and to impound the same; to impose a tax on owners or harbourers of dogs; to regulate and prevent dogs running at large, and to kill such as are found running at large contrary to law after public notice given; to abate and cause to be removed all public nuisances; to regulate the construction of privy vaults; to cause vacant lots in central situations, when they become nuisances to be properly enclosed; to regulate and prevent the erection or continuance of slaughter houses, tanneries, distilleries or other manufactories or trades which may prove to be nuisances; to prevent the ringing of bells, blowing of horns, shouting and other unusual noises in the streets and public places; to prevent immoderate riding or driving in the same; to prevent or regulate bathing in any public water in or near the City.

Livery Stables, &c.

Teasing passengers.

Eleventh. To regulate and license owners of livery stables or other owners of horses or carriages letting out the same for hire or profit, carters, porters, butchers or hucksters, and to prevent runners, stage drivers and others in the streets or public places from soliciting and teasing passengers and others to travel in any boat, stage, or vehicle.

Police.

Alm-houses, &c.

Work-house, &c.

Twelfth. To establish and regulate a Police for the said City; to establish and regulate one or more Almshouses and Houses of Refuge for the relief of the poor and destitute; to erect and establish and also to provide for the proper keeping of any Work-house, Gaol, Bridewell or House of Correction, that may hereafter be erected in the said City.

Cisterns, &c.

Thirteenth. To erect, preserve and regulate the public cisterns, reservoirs or other conveniences for the supply of good and wholesome water, or for the extinguishment of fires, and to make reasonable charge for the use thereof, and to prevent the waste and fouling of public water.

Fourteenth.

Fourteenth. To prevent or regulate the firing of guns or other fire arms ; to prevent or regulate the firing or setting off of fire-balls, squibs, crackers or fire-works ; to prevent or regulate the keeping or transporting of gunpowder or other combustible or dangerous materials, and to erect, regulate and provide for the support by fees of a City Magazine for the storing of gunpowder, whether erected within or without the said City, and to compel persons to store therein ; to prevent or regulate the use of fire, lights or candles in livery or other stables, cabinet-makers' and carpenters' shops and other combustible places ; to prevent or regulate the carrying on of manufactures or trades dangerous in causing or promoting fire, and to regulate and require the safe keeping of ashes in proper deposits ; to make such By-laws as they may deem expedient for the security, safety and advantage of the inhabitants, containing rules, regulations and restrictions to be observed by all persons in the erection of buildings to be built within the said City ; to regulate, remove and prevent the construction of any chimney flues, fire place, stove oven, boiler or other apparatus or thing in any house, manufactory or business which may be dangerous in causing or promoting fire ; to regulate the construction of chimnies as to dimensions and thickness, and to enforce the proper sweeping and cleaning of the same by licensed chimney sweepers ; to guard against the calamities of fire, by regulating and enforcing the erection of party walls, and preventing wooden buildings being erected in the thickly built parts of the City ; to compel the owners and occupants of houses to have scuttles in the roofs, and stairs and ladders leading to the same ; to require the inhabitants of the said City to provide as many fire buckets in such manner and time as they shall prescribe, and to regulate the examination of them, and the use of them at fires ; to regulate the conduct and enforce the assistance of the inhabitants at fires, and the preservation of property thereat ; to make regulations for the suppression of fires, and the pulling down or demolishing of adjacent houses ; to purchase fire engines, and establish and regulate fire, hook, ladder, and property saving companies subject to the laws of this Province ; to provide medals or rewards for any person who shall distinguish himself at a fire, and to assist the widows and orphans of persons who may be killed at fires.

Firing of guns,
&c.
And matters
relative to the
prevention of
fires.

Fifteenth. To regulate the interment of the dead, and to direct the returning and keeping of Bills of Mortality, and to impose penalties on physicians, sextons and others for default in the premises ; to provide and regulate public cemeteries for the interment of the dead.

Interment of
the dead, &c.,

Sixteenth. To regulate the management, and provide for the security of the public property of the said City of every kind, and to provide for the permanent improvement of the said City in all matters as well ornamental as useful.

Public prop-
erty of the City,
&c.

Seventeenth. To license and appoint by Warrant such and so many inferior Officers, other than those already mentioned in this Act, as shall from time to time be found necessary or convenient to enforce and execute such By-laws and Regulations as may hereafter be made by the said City Council, and to displace all or any of them and put others in their room, and to add to or diminish the number of them or any of them as often as the said Council shall see fit.

Inferior Offi-
cers for en-
forcement of
By-laws of
Council.

Eighteenth. To regulate the bonds, recognizances or other securities to be given by all Municipal Officers for the faithful discharge of their duties ; to inflict reasonable penalties for refusing to serve in any Municipal Office, and for the infringement of any and every By-law of the said City.

Bonds, recog-
nizances, &c.,
given by Mu-
nicipal Offi-
cers.

Nineteenth.

Taxes.

Nineteenth. To impose and provide for the raising, levying and collecting annually, by tax on the real and personal property in the said City made liable to assessment by this Act, a sum of money, the better to enable them to carry fully into effect the powers hereby vested in them; Provided always, that such tax shall never exceed in any one year, one shilling in the pound upon the assessed yearly value of such property, exclusive of the tax to be assessed by law for the support of Common Schools, and the support of a Lunatic Asylum in that part of this Province called Upper Canada, and that from and after the passing of this Act no assessment for Statute Labour shall be made in the said City; Provided always, that nothing in this Act contained shall be construed to authorize the said City Council to take or enter upon any land or real estate, or to tax or assess any property real or personal belonging to Her Majesty, Her Heirs or Successors, or vested in or held in trust by any public body, officer, person or party, in trust for the uses or services of Her Majesty, Her Heirs or Successors; whether such real estate be held in fee simple or for any less estate, during the continuance of such estate, unless such land or real estate be leased to any private person not in the Military or Naval service of Her Majesty, in which case such land or real estate, although not liable to be taken or entered upon as aforesaid, shall be liable to be assessed in the same manner as other land or real estate in the said City may be assessed; but the assessment payable in respect to any such land or real estate shall be payable by the tenant or tenants thereof, and by him or them only.

Proviso.

Proviso—the Council may not take or tax real property held by Her Majesty or in trust for Her Majesty.

Duties of Officers of City Council.

Twentieth. To regulate and prescribe the duties of all Officers acting under the authority of the City Council, and the penalties on their default of duty, and to impose fines upon Jurors refusing to attend the valuation of real property authorized by this Act.

All laws necessary for carrying into execution powers vested in City Council.

Proviso.

Twenty-first. Generally to make all such laws as may be necessary and proper for carrying into execution the powers herein vested or hereafter to be vested in the City Council, or in any department or office thereof for the peace, welfare, safety, and good government of the said City, as they may from time to time deem expedient, such laws not being repugnant to this Act and the general laws of the Province: Provided always, that no person shall be subject to be fined more than five pounds, exclusive of costs, or to be imprisoned more than thirty days for the breach of any By-law or regulation of the said City; and provided also, that no person shall be compelled to pay a greater fine than ten pounds for refusing or neglecting to perform the duties of any Municipal Office when duly elected or appointed thereto.

No person to be an incompetent witness in any trial in which the Council is interested, by reason of his being an inhabitant citizen.

XLIII. And be it enacted, That upon the trial of any issue or taking of any inquisition or judicial investigation whatever, in which the said City or the Mayor, Councillors thereof, or either of them, are a party interested, no person shall be deemed an incompetent witness or Juror by reason of his being an inhabitant citizen; and that if any person shall be sued or impleaded by reason of any thing done by virtue of this Act, it shall be lawful for such person to plead the general issue, and to give this Act and the special matter in evidence.

False swearing or affirming, to be perjury.

XLIV. And be it enacted, That if any person shall knowingly swear or affirm falsely in any examination or evidence taken in any proceeding made by the authority of this Act, he shall be deemed guilty of wilful and corrupt perjury.

XLV. And be it enacted, That it shall be lawful for the Governor General, or person administering the Government of this Province, to appoint a Police Magistrate in and for the said City from among the resident inhabitants thereof, who shall hold office during pleasure, and who shall also be *ex officio* a Justice of the Peace in and for the Gore District, and the said Police Magistrate shall be entitled to receive such fees as are now used and allowed by law in that part of the Province of Canada called Upper Canada, to other Justices of the Peace, which fees together with all fines imposed by him in his proper jurisdiction as such Police Magistrate shall be by him on the first days of January, April, July, and October in each year, paid over and accounted for under oath to be sworn before any Justice of the Peace for the Gore District, to the Treasurer of the said City, to be by him applied to the general funds of the said City, and that the said Police Magistrate shall also have full power and authority to take cognizance of, and punish all offences against the Municipal Laws and Regulations of the City in the same manner as the Mayor or any Councillor thereof, and that the salary of the Police Magistrate shall not be more than two hundred and fifty pounds nor less than one hundred and fifty pounds, to be determined by the said City Council, and such salary shall be paid out of the general revenue of the City.

Governor may
appoint Police
Magistrate.

His Fees.

And Salary.

XLVI. And be it enacted, That the penalties which may be imposed under the authority of this Act shall be applied to the uses of the said City, and shall be recoverable with costs on conviction upon the oath of one or more witnesses, or by confession before the Mayor, the Police Magistrate or any one of the Councillors, by distress and sale of the goods and chattels of the offender or offenders, or imprisonment of his or their persons, which Warrant of distress or imprisonment the Mayor or either of the Councillors is hereby empowered to grant.

Penalties to be
recovered by
distress.

XLVII. And be it enacted, That the Mayor and Councillors, and Police Magistrate, or any one of them, shall have full power and authority to take up and arrest, or order to be taken up or arrested, all and any rogues, vagabonds, drunkards and loose and disorderly persons and commit them to any Workhouse Gaol, Bridewell or House of Correction which may be established in the said City, there to receive such punishment, not to exceed one month's imprisonment as the said Mayor, Councillor or Police Magistrate shall think fit; Provided always, that the Gaol of the Gore District shall be the Gaol of the said City until another suitable place of confinement is provided by the City Council, and the Sheriff of the said District and his Gaoler shall be bound to receive and safely keep until duly discharged, all persons committed thereto by any competent power or authority of the said City.

Mayor, &c.,
may arrest
rogues, vaga-
bonds, &c.

Provido.

XLVIII. And be it enacted, That the said City Council shall have full power and authority, notwithstanding any law to the contrary, to purchase and acquire, or to take and enter into after paying, tendering or depositing the value thereof, to be ascertained as hereinafter provided, such land, ground or real property of any description within the said City, as may be by them deemed necessary for opening, lengthening, straightening or enlarging any street, square, market place or other public thoroughfare, or as a site for any public building, to be erected by the City Council, and to pay to or for the use of the proprietor or proprietors of such ground or real property and out of the funds of the said City, such sum of money as may be agreed upon as the value of such ground or property by the party proprietor thereof and the said Council respectively, or as shall be ascertained in the manner hereinafter mentioned in case they shall not so agree upon

Council may
purchase land
necessary for
opening
streets, &c.

Taxes.

Nineteenth. To impose and provide for the raising, levying and collecting annually, by tax on the real and personal property in the said City made liable to assessment by this Act, a sum of money, the better to enable them to carry fully into effect the powers hereby vested in them; Provided always, that such tax shall never exceed in any one year, one shilling in the pound upon the assessed yearly value of such property, exclusive of the tax to be assessed by law for the support of Common Schools, and the support of a Lunatic Asylum in that part of this Province called Upper Canada, and that from and after the passing of this Act no assessment for Statute Labour shall be made in the said City; Provided always, that nothing in this Act contained shall be construed to authorize the said City Council to take or enter upon any land or real estate, or to tax or assess any property real or personal belonging to Her Majesty, Her Heirs or Successors, or vested in or held in trust by any public body, officer, person or party, in trust for the uses or services of Her Majesty, Her Heirs or Successors; whether such real estate be held in fee simple or for any less estate, during the continuance of such estate, unless such land or real estate be leased to any private person not in the Military or Naval service of Her Majesty, in which case such land or real estate, although not liable to be taken or entered upon as aforesaid, shall be liable to be assessed in the same manner as other land or real estate in the said City may be assessed; but the assessment payable in respect to any such land or real estate shall be payable by the tenant or tenants thereof, and by him or them only.

Proviso.

Proviso—the Council may not take or tax real property held by Her Majesty or in trust for Her Majesty.

Duties of Officers of City Council.

Twentieth. To regulate and prescribe the duties of all Officers acting under the authority of the City Council, and the penalties on their default of duty, and to impose fines upon Jurors refusing to attend the valuation of real property authorized by this Act.

All laws necessary for carrying into execution powers vested in City Council.

Proviso.

Twenty-first. Generally to make all such laws as may be necessary and proper for carrying into execution the powers herein vested or hereafter to be vested in the City Council, or in any department or office thereof for the peace, welfare, safety, and good government of the said City, as they may from time to time deem expedient, such laws not being repugnant to this Act and the general laws of the Province: Provided always, that no person shall be subject to be fined more than five pounds, exclusive of costs, or to be imprisoned more than thirty days for the breach of any By-law or regulation of the said City; and provided also, that no person shall be compelled to pay a greater fine than ten pounds for refusing or neglecting to perform the duties of any Municipal Office when duly elected or appointed thereto.

No person to be an incompetent witness in any trial in which the Council is interested, by reason of his being an inhabitant citizen.

XLIII. And be it enacted, That upon the trial of any issue or taking of any inquisition or judicial investigation whatever, in which the said City or the Mayor, Councillors thereof, or either of them, are a party interested, no person shall be deemed an incompetent witness or Juror by reason of his being an inhabitant citizen; and that if any person shall be sued or impleaded by reason of any thing done by virtue of this Act, it shall be lawful for such person to plead the general issue, and to give this Act and the special matter in evidence.

False swearing or affirming, to be perjury.

XLIV. And be it enacted, That if any person shall knowingly swear or affirm falsely in any examination or evidence taken in any proceeding made by the authority of this Act, he shall be deemed guilty of wilful and corrupt perjury.

XLV. And be it enacted, That it shall be lawful for the Governor General, or person administering the Government of this Province, to appoint a Police Magistrate in and for the said City from among the resident inhabitants thereof, who shall hold office during pleasure, and who shall also be *ex officio* a Justice of the Peace in and for the Gore District, and the said Police Magistrate shall be entitled to receive such fees as are now used and allowed by law in that part of the Province of Canada called Upper Canada, to other Justices of the Peace, which fees together with all fines imposed by him in his proper jurisdiction as such Police Magistrate shall be by him on the first days of January, April, July, and October in each year, paid over and accounted for under oath to be sworn before any Justice of the Peace for the Gore District, to the Treasurer of the said City, to be by him applied to the general funds of the said City, and that the said Police Magistrate shall also have full power and authority to take cognizance of, and punish all offences against the Municipal Laws and Regulations of the City in the same manner as the Mayor or any Councillor thereof, and that the salary of the Police Magistrate shall not be more than two hundred and fifty pounds nor less than one hundred and fifty pounds, to be determined by the said City Council, and such salary shall be paid out of the general revenue of the City.

Governor may
appoint Police
Magistrate.

His Fees.

And Salary.

XLVI. And be it enacted, That the penalties which may be imposed under the authority of this Act shall be applied to the uses of the said City, and shall be recoverable with costs on conviction upon the oath of one or more witnesses, or by confession before the Mayor, the Police Magistrate or any one of the Councillors, by distress and sale of the goods and chattels of the offender or offenders, or imprisonment of his or their persons, which Warrant of distress or imprisonment the Mayor or either of the Councillors is hereby empowered to grant.

Penalties to be
recovered by
distress.

XLVII. And be it enacted, That the Mayor and Councillors, and Police Magistrate, or any one of them, shall have full power and authority to take up and arrest, or order to be taken up or arrested, all and any rogues, vagabonds, drunkards and loose and disorderly persons and commit them to any Workhouse Gaol, Bridewell or House of Correction which may be established in the said City, there to receive such punishment, not to exceed one month's imprisonment as the said Mayor, Councillor or Police Magistrate shall think fit; Provided always, that the Gaol of the Gore District shall be the Gaol of the said City until another suitable place of confinement is provided by the City Council, and the Sheriff of the said District and his Gaoler shall be bound to receive and safely keep until duly discharged, all persons committed thereto by any competent power or authority of the said City.

Mayor, &c.,
may arrest
rogues, vaga-
bonds, &c.

Proviso.

XLVIII. And be it enacted, That the said City Council shall have full power and authority, notwithstanding any law to the contrary, to purchase and acquire, or to take and enter into after paying, tendering or depositing the value thereof, to be ascertained as hereinafter provided, such land, ground or real property of any description within the said City, as may be by them deemed necessary for opening, lengthening, straightening or enlarging any street, square, market place or other public thoroughfare, or as a site for any public building, to be erected by the City Council, and to pay to or for the use of the proprietor or proprietors of such ground or real property and out of the funds of the said City, such sum of money as may be agreed upon as the value of such ground or property by the party proprietor thereof and the said Council respectively, or as shall be ascertained in the manner hereinafter mentioned in case they shall not so agree upon

Council may
purchase land
necessary for
opening
streets, &c.

Proviso as to
gardens, or-
chards, plea-
sure grounds,
&c.

upon the same : Provided always, that nothing herein contained shall authorize the said City Council to take or enter into for any of the purposes aforesaid, the house, yard, garden, orchard or pleasure grounds of any person or party, without the consent of such person or party first obtained, or to carry or construct any street, square, market place, thoroughfare or public building through or upon any such property without such consent as aforesaid.

City Council
may stop up
any street.

XLIX. And be it enacted, That it shall and may be lawful for the City Council of the said City in Council assembled, by a Legislative Act or By-law made according to the provisions of the Act of Incorporation of the said City, to stop up, alter or divert any public highway, street or lane, or to lay out any new street or highway, or to extend any street already laid out : Provided always, that before any such Act or By-law shall be passed, it shall be the duty of the said Council, by resolution, to direct a notice of their intention to stop, alter, or divert any such public highway, street or lane, or of their intention to lay out any new street, or to extend any street already laid out, to be given and to be published at least one calendar month, in not more than three nor less than two newspapers of the said City ; and also to hear in person, or by Counsel, or by Attorney, any person through whose land such highway, street or lane, or proposed highway, street or lane shall run, if he claims so to be heard before them at any time before the final passing of any such Act or By-law.

Proviso :
Notice of their
intention must
be given.

Action at law
may be insti-
tuted in Q. B.
to recover
compensation,
upon passing
of any By-law
to open any
street, &c.

L. And be it enacted, That upon the passing of any Act or By-law of the said Council for the purpose of authorizing the opening of any street or other public thoroughfare, or of changing or diverting any street or public thoroughfare, or of extending the same so as to cause the same or any part thereof to go through or to be placed upon the land or other real property of any person or persons, it shall and may be lawful for the person or persons who shall own such property to institute a special action on the case at law in Her Majesty's Court of Queen's Bench for Upper Canada against the said City of Hamilton, to recover compensation, and such action shall be sustainable whether any entry shall be made under such Act or By-law or not, and if no such entry or use other than an entry for the purpose of survey shall be proved at the trial of any such action, the Judge who shall try the same shall certify the want of such proof upon the Record, and in such case it shall and may be lawful for the said Council at any time after such trial, and until three calendar months after the rendering judgment upon such verdict, to repeal such By-law, and to tender and pay to the Plaintiff in such action, or to the Plaintiff's Attorney, the taxed costs of the said Plaintiff in such action, and from and after such tender or payment the City of Hamilton shall be discharged from the damages which shall be assessed in such action ; and, the land or other real property which shall be proposed to be taken by any such Act or By-law shall be and remain as if no such Act or By-law had been passed, and no entry or other use of such land or real property for the purposes of such Act or By-law shall be lawful after the assessment of such damages by the Jury until the amount of damages assessed, and the costs of the Plaintiff in such action shall have been levied by the Sheriff, or paid or discharged, or lawfully tendered to the Plaintiff or the Attorney of the Plaintiff in such action.

If tender be
proved, costs
to fall on the
plaintiff.

LI. And be it enacted, That if a tender shall be pleaded, and if upon the trial of any such action it shall be proven to the satisfaction of the Jury, that a lawful tender shall have been made to the Plaintiff or to the Plaintiff's Attorney of a compensation, or
sum

sum equal to or greater than the amount of the damages assessed by such Jury, the said Jury shall find such tender by their verdict, and in case of such finding, the costs of the Defendant in such action incurred after such tender shall be borne by the Plaintiff, and the Plaintiff in such case shall receive no costs for any proceedings subsequent to such tender.

LII. And be it enacted, That the Jury in estimating the damages or compensation in any such action, shall take into consideration any benefit or advantage which shall or may be derived from the opening or diverting or extending any such street or other public thoroughfare, and deduct the same from the damages or compensation, and in case the said benefit to be derived from the said opening, diverting or extending such street or public thoroughfare shall be greater than the damages which shall be found to arise from the taking of such land or other real property, the verdict shall be for the defendant; Provided always, that it shall not be competent for the said Council to pass any Act or By-law for stopping up any original allowances for road within the said City.

In estimating damages, Jury to take into consideration advantage to be derived from opening of any new street.

Proviso.

LIII. And be it enacted, That in lieu of the payment of any part of the rates or assessments heretofore payable to the general funds of the Gore District, the Treasurer of the said City shall, some time in the month of January in each and every year, out of the monies in his hands of the said City, pay to the Treasurer of the Gore District, for the general uses of the said District, the yearly sum of two hundred pounds, the first payment thereof to begin and be made in the month of January, one thousand eight hundred and forty-eight; Provided always, that nothing in this Act shall be construed to prevent or excuse the said City from paying to the general funds of the Gore District all such sum and sums of money as are or hereafter may be collected within the said City for or on account of the assessment already imposed by the general assessment law of this Province, due and payable by the inhabitants of the said City, for the year one thousand eight hundred and forty-six.

Treasurer of City to pay annual sum to Treasurer of Gore District in lieu of rates heretofore payable to funds in that District.
Proviso.

LIV. And be it enacted, That the said Corporation may, within five years after it shall be ascertained by the annual census of the said City that the said City contains ten thousand inhabitants, build or cause to be built at the expense of the said Corporation, on some convenient site to be by them procured for that purpose, within the said City, a good, sufficient and secure Gaol and House of Correction, for the confinement and imprisonment of all offenders, who shall at any time after the completion of such Gaol and House of Correction be committed or adjudged to be imprisoned under any Order or Warrant of the Mayor or any Councillor, or the Police Magistrate of the said City, and from and immediately after the completion of such Gaol and House of Correction, no person adjudged to be imprisoned as aforesaid, shall be committed to the Gaol of the Gore District, except in cases of parties charged with offences which, from their nature require to be tried before a Superior Court; Provided always, that so soon as such Gaol and House of Correction shall be built and finished as aforesaid, the payment of the said sum of two hundred pounds to the Treasurer of the Gore District shall cease and determine.

Corporation after certain period may build gaol and house of correction.

Proviso.

LV. And be it enacted, That the better to enable the said Corporation to build such Gaol and House of Correction, it shall and may be lawful for them to borrow for a term not exceeding twelve years, a sufficient sum of money for that purpose not exceeding five

For that purpose Corporation may borrow a sum not

exceeding
£5,000.

five thousand pounds, from any person or persons or company willing to advance the same, at a rate of interest not exceeding that fixed by law.

Certain rates
and assess-
ments to be
levied, &c.

LVI. And be it enacted, That for carrying the several purposes of this Act into execution, and for the securing, raising and paying any monies which shall or may be borrowed under the authority thereof, and the interest of such monies, there shall be made, assessed and levied under the authority of the City Council at yearly periods, not later than the first day of April in each year, a certain rate and assessment upon all and every person who shall inhabit, hold, use and occupy any house, shop, warehouse, manufactory, building, or piece or parcel of land being a separate tenement, situate, lying and being within the said City, according to the yearly value thereof, respectively, to be ascertained in manner hereinafter mentioned; and the time for which the first yearly rate or assessment under this Act shall be held to begin, shall be the first day of January, one thousand eight hundred and forty-seven, and shall end on the last day of that year, and the Assessor and Assessors of the said City, in addition to the duties devolving upon them by any Act of the Parliament of this Province, shall make a fair return of the Assessment Roll of their respective Wards to the said City Clerk on or before the first day of August in each year, who shall furnish to the Treasurer a true copy duly certified.

Annual value
of houses,
shops, &c.,
to be settled
according to
real rack-rent:

LVII. And be it enacted, That except as respects vacant grounds or other property hereinafter specially mentioned and provided for, the annual value of all such houses, shops, warehouses, manufactories, buildings, gardens, grounds, lands, tenements, and parts and portions thereof, being separate tenements as aforesaid, so as to be rated and assessed as aforesaid, shall be settled according to the real rack-rent or full yearly value, which said rent or yearly value shall be ascertained by the said Assessor or Assessors once in each year; Provided always, that the said Assessor or Assessors shall in every instance, wherever they can truly ascertain the same, assess the said yearly value at the annual rent actually and *bonâ fide* charged or paid for such premises, and no more.

Proviso.

The said rates
to be also le-
vied upon
owners of
chattel prop-
erty in this
section men-
tioned.
Proviso.

LVIII. And be it enacted, That the rate or rates aforesaid shall also be raised, assessed and levied upon the owners or possessors of the following chattel property, that is to say: Stallions (kept for covering mares,) horses and horned cattle, as hereinafter mentioned, coaches, phaetons, curricles, gigs, wagons, sleighs, and other carriages kept for pleasure only, or for hire, according to the yearly value thereof, as ascertained as hereinafter mentioned; Provided always, that nothing in this Act contained shall extend or be construed to extend to any house, lands, property, goods or effects herein enumerated, which shall belong to or be in the sole and actual possession, control or occupation of Her Majesty, Her Heirs or Successors, and shall not be leased to individuals, nor to any churches, chapels, places of public Divine Worship, school-houses, (when not used as dwellings) or burying grounds.

Lots of land to
be valued with
houses thereon
in certain
cases.

LIX. And be it enacted, That every lot and parcel of ground whereon any house or other building, or houses or buildings to be valued as aforesaid, are situate and being held therewith as the same tenement, when such lot of ground is not above half an acre in extent, and to the amount of half an acre thereof, shall be assessed and valued with the house or building, houses or buildings thereon, and the overplus, if any, over half an acre, shall be valued as a separate tenement and vacant ground.

LX. And be it enacted, That the possessors or owners of all cultivated, vacant or unoccupied ground, farms, gardens and other lands not valued with any house or building as above mentioned, situate or partly situate within the said City, and also the said horses, cattle and carriages heretofore mentioned, shall not be rated in respect thereof as hereinbefore mentioned, but the same shall be valued according to the certain fixed rates, that is to say : lots or pieces of ground being separate tenements, as follows : Under half an acre, five pounds ; over half an acre and under an acre, ten pounds ; over an acre and under two acres, twenty pounds ; and every lot or piece of land as aforesaid of two acres and upwards, ten pounds for the first acre above the said two acres, five pounds for the second, and one pound ten shillings for every subsequent acre : Provided always, that town lots lying together and owned by the same person not having a separate or more than one dwelling house or store or other building for separate occupation or use, shall not be taken as separate lots, but shall be taxed by the quantity of land they collectively contain according to the above rate : every stallion, kept for covering mares, for hire or gain, at forty pounds of yearly value ; every other horse, mare or gelding, three pounds ; every head of cows, and other horned cattle, one pound ; on each of the following vehicles, kept for pleasure only, as follows : every close four wheeled carriage, fifty pounds of yearly value ; every phaeton or other open four wheeled carriage, thirty pounds ; every pleasure wagon or other carriage, buggy or gig, twelve pounds ten shillings : on each of the following vehicles kept for conveying passengers for hire or gain only : every four wheeled carriage, twelve pounds ; every two wheeled carriage, eight pounds ; for every two horse sleigh kept for pleasure only, at twenty-five pounds yearly value, and every one horse sleigh kept for pleasure only, at twelve pounds ten shillings of yearly value ; for every two horse sleigh kept for conveying passengers for hire or gain only, ten pounds of yearly value.

Rates to be levied on cultivated ground, farms, &c., horses, cattle and carriages, &c.

Proviso as to Town lots.

Values at which certain personal property shall be assessable.

LXI. And be it enacted, That it shall be the duty of the Assessors of the said City to make such valuation as aforesaid when required by the City Council, and to complete the same on or before the first day of August in each year ; and also to leave at the residence of every person so rated, whenever residing in the said City, a notice of the yearly rent or value of the property in respect whereof he, she, or they shall be so rated, and in case any person shall think himself or herself over-rated, in his or her assessment, it shall and may be lawful for such person at any time before the tenth day of August to give notice in writing to the City Clerk of the over charge complained of, and the same shall be examined into and tried by a Court of five members of the said Council, to be appointed by the Council for the purpose by ballot (of whom three shall be a *quorum*) at such time and place as the Council may direct, reasonable notice thereof being given to the party complaining and to the Assessor making the rate : and the Court, after hearing the complaining party, and his or her witnesses on oath, shall finally decide and determine upon such complaint, and affirm and amend the return of the Assessor accordingly : Provided always, that if the said complaining party shall neglect to appear at such meeting of the said Court, he or she having had reasonable notice thereof as aforesaid, the said Court shall proceed to make their final decision, without hearing such party ; and in case it shall appear to any two or more members of the said Court that the rent or yearly value has been in any case returned by the Assessor at too low a value, they shall cause the said Clerk to give to the person or persons rated as aforesaid, and to the Assessor who shall have made such rate, notice of the time of meeting of the Court aforesaid at which the same matter shall be heard, and the same shall be finally determined by the said Court in like manner as aforesaid,

Assessors to make valuation when required by City Council.

Persons aggrieved may appeal.

Proviso for cases where parties shall neglect to appear.

after

Proviso.

after hearing the said parties and witnesses on oath, or in default of their appearance as aforesaid : Provided always, that the said Court shall have power to adjourn from time to time as they shall see fit.

Mayor or any of the Councillors may issue summons for witnesses.

LXII. And be it enacted, That the Mayor or any one of the Councillors of the said City shall have full power and authority (if required) to issue a Summons for each witness whose evidence may be required by the said Court, and if any person shall neglect or refuse to obey such Summons, upon being tendered a reasonable remuneration for his services, not exceeding two shillings and six pence per day, he shall be liable to such fine, and in default of payment, such imprisonment as is authorized by this Act to be imposed for violating the By-laws of the said City Council.

Court may hear on memorial cases of persons assessed on houses vacant for more than four months.

LXIII. And be it enacted, That it shall be lawful for the said Court constituted as aforesaid to hear, on Memorial or Petition, the cases of such persons as during that year have been assessed for any house or part of a house which has been vacant for more than four calendar months, and also the cases of such persons who from sickness or extreme poverty shall be unable to pay any rate by this Act imposed, and on hearing such cases it shall and may be lawful for the said Court to compound for or remit the whole or any part of such rate or rates.

Penalty on persons granting receipt for a less sum than rent paid for premises referred to therein.

LXIV. And be it enacted, That every landlord, proprietor, factor or agent, who shall wilfully grant a certificate or receipt which contains a less sum than the rent really paid or payable for the premises therein mentioned or referred to, and every tenant who shall present to the Assessor aforesaid, or otherwise alter or publish such certificate or receipt in order to procure a lessening or abatement of such rate or assessment, shall be liable to such fine, and in default of payment, to such imprisonment as may be imposed by any By-law of the City Council to that effect.

Penalty on persons refusing to pay assessments.

LXV. And be it enacted, That if any person or persons rated or assessed as in manner herein directed shall refuse or neglect to pay the rates or assessment charged upon him, her or them, for the space of fourteen days next after such rates shall be due and demanded by the Treasurer of the City, it shall and may be lawful for the said Treasurer to apply to the Mayor, or, in his absence or illness, to the presiding Councillor, for a Warrant to the High Bailiff, or any Constable of the said City, to enter into the house or houses, other dwellings or premises of such person or persons, and to seize and take possession of his, her or their goods and effects, (whether in the Ward in which the assessed property is situated, or elsewhere in the said City,) which Warrant the said Mayor or Councillor is hereby authorized to grant upon a certificate signed by the Treasurer, and an affidavit sworn by the Constable making the demand, of such rate having been made and of such person or persons being in arrear to the amount stated in such certificate, and if such rate or assessment shall not be paid within five days next after such seizure, the City Council is hereby authorized to sell by public auction at such place as may be proper, such part of the said goods and effects as shall be sufficient to pay the said rates and assessments, with the costs and charges attending such seizure and sale, returning the overplus, if any there be, to the owner or owners : Provided always, that the costs and charges of any such seizure and sale shall not exceed those authorized by a certain Act of the Parliament of Upper Canada, passed in the first year of Her present Majesty's Reign, and intituled, *An Act to regulate the costs of levying distresses for small rents and penalties.*

Proviso.

Act of U. C.
1 Vict. c. 16.

LXVI. And be it enacted, That all proprietors, lessees and others, who shall let for rent premises within the said City for a space less than one year, shall themselves, as well as the occupiers of such premises, be liable and responsible for the rates and assessments aforesaid, and assessments and rates shall and may be recovered from the proprietors, lessees and others, or from the occupiers, as the City Treasurer shall judge convenient.

Proprietors letting premises for less than one year, to be liable as well as occupiers, for rates, &c.

LXVII. And be it enacted, That every tenant for a term of years, or of one year, or of any shorter period, commencing after the passing of this Act, who shall pay any rates, levies or assessments under the authority of this Act, shall, when such rate or assessment shall be paid and discharged, be at liberty to deduct the amount of such rate or assessment out of the rent due, or to fall due next after the payment of such rate or assessment, excepting always when there shall be any covenant, stipulation or agreement between the landlord and the tenant for the payments of rates or taxes by the tenant, or for the payment of the rent by such tenant without abatement for or on account of such rates or taxes.

Tenants in certain cases paying rates, &c., to deduct amount of rates out of rent due next after payment of rate.

LXVIII. And be it enacted, That in all cases where the person or persons who shall be rated, in respect of any vacant ground or other real property within the said City, shall not reside therein, and the rates and assessments payable in respect of such vacant ground or other property shall remain unpaid, the rates or assessments payable in respect of such property shall remain charged against the same, and shall be paid by any future occupier of the same, or by any proprietor thereof, who shall reside within the said City at any time after the said rates and assessments shall be due and in arrear, together with interest on the sum and sums so in arrear, from the time at which they shall respectively become payable, after the rate of six per centum per annum, and the said sum and sums so in arrear, with interest, shall be recovered in like manner as is hereinbefore provided for the recovery of other rates and assessments.

In cases where persons rated in respect of any property shall not reside thereon, rate to be paid by future occupier, &c.

LXIX. And be it enacted, That each male inhabitant of the said City, of the age of twenty-one years and upwards, and not above the age of sixty years, not otherwise rated under the authority of this Act, and who by the present laws would be liable to perform Statute Labour, shall be rated and assessed in the sum of two shillings and six pence yearly, which said sum, with a list of persons liable to pay it, shall be added to the City Assessment List by the Assessor, and collected by the Treasurer, for the general uses of the said City, in like manner as other rates are levied and raised under the authority of this Act.

Male inhabitants between 21 and 60 to be assessed in a certain sum annually instead of statute labour.

LXX. And be it enacted, That all and every the Rules, Orders, Regulations, and Acts of Authority for, touching or concerning the affairs of the Town of Hamilton, which may be in force at the time of the passing of this Act, shall continue, be and remain in full force and virtue until the same be rescinded, repealed or altered by the City Council of the City of Hamilton, or other competent legal authority, and all Officers of the Town of Hamilton, appointed by the present competent authorities of the said Town, shall continue to act in the same capacity as heretofore, and with the same remuneration for their services, until removed by the City Council, or re-appointed under the provisions of this Act.

Rules, &c., of Town of Hamilton to remain in force until repealed by City Council.

Present President and Board to remain in Office until City Council be appointed.

LXXI. And be it enacted, That until the first City Council of the City of Hamilton shall be constituted under the provisions of this Act, the President and Board of Police of the Town of Hamilton shall remain in office, and when the said City Council shall be constituted, they shall go out of office, and their whole duties and powers shall cease; but nothing in this Act shall prevent any member of the Board of Police of the said Town from being a Candidate at the first election for Councillors for the City of Hamilton.

President and Board to take means for holding first election of Councillors for City of Hamilton.

LXXII. And be it enacted, That the President and Board of Police in the Town of Hamilton, shall and they are hereby authorized and required to take the necessary means, by preparing and revising the Voters' Lists and otherwise, for holding the first election of Councillors for the City of Hamilton under this Act, and according to the spirit, intention and meaning thereof, which said election, the qualification and registry of persons voting thereat, the manner and time of holding the same, and all things therein concerning, shall be held, governed and done by and in accordance with the provisions of this Act, relative to the Annual Ward Elections, as near as may be; and for the purpose of making out the necessary Voters' Lists for the said first election, the Assessment Lists for the year one thousand eight hundred and forty-six shall be used, and all persons qualified under this Act, being entered on the said Lists, shall be voters in the various Wards respectively, at the said first election, and such first election so held, and all the proceedings growing thereout necessary to constitute the said City Council, and to give effect to its powers and proceedings, shall be valid to all intents and purposes. Provided always, that the yearly value of any property for the purpose of making such Voters' Lists shall be taken at ten per cent on the absolute assessed value thereof on the Assessment Lists for the said year one thousand eight hundred and forty-six; and the said Voters' Lists shall include the proprietors or tenants of property of the required value which under this Act shall be within the said City, although before the passing thereof it was without the limits thereof, and such proprietors or tenants shall vote at the first election of Councillors in the year one thousand eight hundred and forty seven.

Proviso as to the mode of determining the yearly value of property in the first instance, and as to voters on lands not heretofore in the City.

Certain Magistrates only may vote on applications for licenses within the City.

LXXIII. And be it enacted, That from and after the passing of this Act, at any Adjourned General Sessions held in the Gore District, for the purpose of receiving applications and granting certificates to Inn-keepers for license, only those Magistrates who may be resident inhabitants of the said City shall vote on any application for a license from an Inn-keeper whose house shall be situate within the said City.

Certain words explained.

LXXIV. And be it enacted, That whenever the word "Oath" is used in this Act, it shall be held to comprehend an affirmation if legally made, and the words "Presiding Councillor" to mean that Councillor who shall be named and appointed by the City Council to preside over the Council in the absence of the Mayor, and the word "Person" or "Persons" shall be taken to comprehend a body politic or corporate, as well as an individual; and every word importing the singular number shall, when necessary, be deemed to extend to several persons or things, and every word importing the masculine gender shall when necessary extend to a female as well as a male.

Council may receive License of Occupation from

LXXV. And be it enacted, That the said City Council shall have full power to take and receive a License of Occupation from Her Majesty, Her Heirs or Successors, or from the Gore District Municipal Council, or from any other person or persons or bodies

bodies corporate of any lands lying within the said City on such terms as may be agreed upon between the parties, and that it shall and may be lawful for the said City Council to purchase lands for the use of the said City either for use or ornament, and to make such terms with regard to the payment of the purchase money of the same as may be agreed upon between the parties, so that the aggregate amount of the purchase money of such purchase over and above that already contracted for, shall not exceed the sum of seven thousand five hundred pounds, and that the said City Council shall have full power to make such Rules and By-laws for the improving and taking care of all such lands as they may deem from time to time advisable, and to enforce the observance of such Rules and By-laws in the same manner as is hereinbefore authorized in other matters.

any party, of
lands lying
within the
City.

LXXVI. And be it enacted, That the said City Council shall have full power to purchase over and above such land as is hereinbefore mentioned, a tract of land for the purpose of a Cemetery, and to lay out and improve the same, and to sell or lease such portions thereof as they may think proper, and to declare in the conveyance thereof to the purchasers or lessees, the terms on which such portions are to be held, and to make such By-laws for the improvement and protection of the said Cemetery as they may think necessary and proper, and to alter and amend the same, provided that the purchase money of such Cemetery shall not exceed three thousand five hundred pounds.

City may pur-
chase land for
Cemetery.

LXXVII. And be it enacted, That it shall be lawful for the said City Council to pay and satisfy all such debts and liabilities as are or have been already contracted by any former or the present President and Board of Police of the said Town, which may not have been legally contracted, but which notwithstanding should appear to be just and fair demands, and for that purpose the said City Council are hereby authorized to loan a sum not exceeding the sum of four thousand pounds, or to issue bonds under the seal of the said City to that extent, bearing legal interest of six per cent. per annum; and it shall also be lawful for the said City Council to borrow or loan a sum not exceeding five thousand pounds, to be applied by the said City Council towards the general improvement of the said City.

Council may
pay liabilities
of present
Board of
Police.

Further loan
authorized.

LXXVIII. And be it enacted, That it shall and may be lawful for the said City Council to contract for and purchase in each Ward of the said City, one lot of land not exceeding one acre in quantity for the purpose of constructing thereon a Common School House and such other buildings connected therewith as they may think advisable; Provided that, in no case the cost of such piece of land, and the erection of such suitable building shall exceed the sum of one thousand pounds for each Ward, respectively.

Council may
purchase lot of
land for School
house, &c.

Proviso.

LXXIX. And for the protection of persons acting in the execution of this Act, Be it enacted, That all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the Gore District, and shall be commenced within six calendar months after the fact was committed, and not afterwards or otherwise; and notice in writing of such action, and of the cause thereof shall be given to the City Clerk, or his substitute two calendar months at least before the commencement of the action, and no Plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if after action brought a sufficient sum of money shall have been paid into Court, with costs, by or on behalf of the Defendant.

Limitation of
Actions.

Property of
Board of
Police of
Hamilton to
vest in City
Council.

LXXX. And be it enacted, That all the property, real and personal, in the possession of or belonging to the President and Board of Police of the Town of Hamilton, shall vest in and belong to the City Council of the City of Hamilton and their successors; and all sums of money which are due or are to be raised under the authority of the above cited Act, or which may be raised under the authority of this Act, shall be paid and applied by the said City Council.

Monies in pos-
session or due
to Board to be
chargeable
with debts
contracted by
the said Coun-
cil, and with
debts to be
contracted by
the City Coun-
cil.

LXXXI. And be it enacted, That all the monies in the possession of the President and Board of Police of the Town of Hamilton, or which are due or are to be raised under the authority of the Act incorporating the said Town, or which may be raised under the authority of this Act, shall be charged and chargeable with the debts which have been legally contracted by the said President and Board of Police, and remain due and unpaid, and with the debts that may be contracted by the City Council of the City of Hamilton, but nothing in this Act shall prevent the said City Council from recovering any loans which have been legally heretofore made by the President and Board of Police of the Town of Hamilton.

Words "Town
of Hamilton"
in any Act,
&c., to apply to
City of Ham-
ilton.

LXXXII. And be it enacted, That whenever in any Act of Parliament, Proclamation, Letters Patent, Record, Writ or other legal proceedings, Deed, Will, Instrument or Writing of any kind or description, the name of the Town of Hamilton is or shall be used with intention to apply it to the place heretofore called the Town of Hamilton as mentioned in this Act, or to any part of the Township of Barton, included by this Act within the said City, it shall, according to locality, be taken to have been meant and intended, and shall, to all intents and purposes whatever, apply to the said City of Hamilton, and shall be so understood and applied by all Courts, Judges and Justices, and by all persons concerned in any public act or duty.

Boundaries of
the City under
this Act to be
those for the
purposes of re-
presentation
in the Assem-
bly.

LXXXIII. And be it enacted, That the boundaries and limits of the said City of Hamilton, as hereinbefore ascertained and fixed, shall be those by which it shall hereafter be deemed to be bounded and limited for the purpose of electing the Representative thereof in the Legislative Assembly of this Province; any thing in any Act, Law or Proclamation to the contrary notwithstanding.

Right of the
Crown, and
others saved
where not ex-
pressly affect-
ed.

LXXXIV. And be it enacted, That nothing herein contained shall affect or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

Public Act.

LXXXV. And be it enacted, That this Act shall be taken and held to be a public Act, and shall be judicially taken notice of by all Judges, Justices and others, without being specially pleaded.

SCHEDULE.

FORM OF COLLECTOR'S CERTIFICATE FOR PROCURING A DISTRESS WARRANT.

I _____ City Treasurer for the City of Hamilton,
do hereby certify that the sum of _____ rated against
_____ an inhabitant of the said City, in respect of rateable
property in _____ Ward (or, not assessed in respect of
rateable property in the said City) is now in arrear and unpaid.

Treasurer.

FORM OF ATTESTATION.

I _____ one of the Constables of the City of
Hamilton, do swear that I did, on the _____ day of
duly demand the above named taxes from the above named
_____ by delivering a notice of such demand,
according to law, at the place of abode of the said
(or, by delivering a notice of such demand to him the said
_____).

Sworn before me at the City of Hamilton, }
this _____ day of } (Signed)
18 _____

FORM OF A WARRANT OF DISTRESS.

To _____ High Bailiff (or, one of the Constables
of the City of Hamilton, *as the case may be*):
You are hereby authorized and required to distrain the goods and chattels and effects
of _____ which you will find upon the
premises of the said _____ in the City,
for the sum of _____ rated against him (or her)
and now in arrear and in default of payment of such rate (or rates) and the lawful costs
and expenses of the said Distress (or Distresses), and to sell and dispose of the said
Distress (or Distresses) according to law, for the recovery of the said rate (or rates)
together with the said costs and expenses according to law, and for your so doing this
shall be your sufficient Warrant.

Given under my hand and seal at the City of Hamilton aforesaid,
this _____ day of
in the year of our Lord, one thousand eight hundred
and _____

(Signed)

[L. S.]



A N N O N O N O
VICTORIÆ REGINÆ.

CAP. LXXIV.

An Act for lighting the City of Quebec with Gas.

[9th June, 1846.]

WHEREAS the lighting the streets of the City of Quebec with Gas would be of great public advantage ; And whereas the Mayor and Councillors of the said City of Quebec, incorporated by law, have not funds at their disposal or which they are now empowered by law to raise sufficient to effect the object aforesaid, unless they suspend the public works and improvements now requisite in the said City, and they have therefore prayed that further powers be granted them in the behalf aforesaid : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful to and for the said Corporation of *The Mayor and Councillors of the City of Quebec* to establish Gas Works in and for the said City, and for that purpose to break up, dig and trench so much and so many of the streets, squares, and public places of the said City of Quebec, (commencing at the Gas Works to be established by the said Corporation and running throughout the said City of Quebec,) as may be necessary for laying the mains and pipes to conduct the Gas from the said Gas Works to the consumers thereof, doing no unnecessary damage in the premises, and taking all necessary precautions for the prevention of accidents to passengers and others.

Preamble.

The Corporation of Quebec authorized to establish Gas Works in the City of Quebec.

II. And be it enacted, That where there are buildings within the said City of Quebec, the different parts whereof shall belong to different proprietors or shall be in possession of different tenants or lessees, the said Corporation shall have power to carry pipes to any part of any building so situate, passing over the property of one or more proprietors or in possession of one or more tenants, to convey the Gas to that of another, or in the possession of another, the pipes being carried up and attached to the outside of the building, and also to break up and uplift all passages which may be a common servitude to neighbouring proprietors, and to dig or cut trenches therein for the purpose of laying down pipes or taking up or repairing the same, the said Corporation doing as little damage as may be in the execution of the powers granted by this Act, and making satisfaction to the owners or proprietors of buildings or other property for all damages to

Where buildings are owned or possessed by different proprietors or tenants, how the Corporation is to act.

to be by them sustained in or by the execution of all or any of the said powers, subject to which provisions this Act shall be sufficient to indemnify the said Corporation or their servants, or those by them employed, for what they or any of them shall do in pursuance of the powers granted by this Act.

Penalty on persons procuring Gas from the Works of the Corporation without its consent.

III. And be it enacted, That if any person or persons shall lay or cause to be laid any pipe or main to communicate with any pipe or main belonging to the said Corporation, or in any way obtain or use its Gas without the consent of the said Corporation, or its Officer appointed to grant such consent, he or they shall forfeit or pay to the said Corporation the sum of twenty-five pounds, and also a further sum of twenty shillings for each day such pipe shall so remain, which said sum, together with all costs of suit in that behalf incurred, may be recovered by civil action in any Court of Law in this Province having civil jurisdiction to the amount.

Penalty on persons damaging the Gas Pipes or other Works.

IV. And be it enacted, That if any person or persons shall wilfully or maliciously break up, pull down or damage, injure, put out of order or destroy any main pipe, engine or other works or apparatus, appurtenances or dependencies of the Gas Works to be made and provided by the said Corporation as aforesaid, or any of the materials used and provided by the same, or ordered to be erected, laid down or belonging to the said Corporation, or shall in any wise wilfully do any other injury or damage, for the purpose of obstructing, hindering or embarrassing the construction, completion, maintaining or repairing of the said Works, or shall cause or procure the same to be done, or shall increase the supply of Gas agreed for with the said Corporation, by increasing the number or size of the holes in the Gas-burners or by using the Gas without burners or otherwise, wrongfully, negligently or wastefully burning the same, or by wrongfully or improperly wasting the Gas, every such person or persons shall be guilty of a misdemeanor, and on conviction thereof, the Court before whom such person shall be tried and convicted shall have power and authority to condemn such person to pay a penalty not exceeding five pounds, currency, or to be imprisoned in the Common Gaol of the District for a space not exceeding three months, as to such Court may seem meet.

Corporation authorized to issue debentures or bonds to the amount of £30,000 redeemable on or before 1st November, 1868, with interest semi-annually.

Proviso: Before issuing debentures the Corporation shall have passed a certain By-law, and accepted a tender for the work for a sum not exceeding £30,000.

V. And be it enacted, That for the purpose of establishing the said Gas Works it shall and may be lawful for the said Corporation, so soon as it shall see fit after the passing of this Act, to issue, for the purposes of this Act, under the hand of the Mayor and the seal of the said Corporation, Debentures or Corporation Bonds, to the amount of thirty thousand pounds, current money of this Province, payable on or before the first day of November, in the year of our Lord, one thousand eight hundred and sixty-eight, and bearing interest, payable semi-annually, on the first day of May and November, in each and every year, and at a rate not exceeding six per centum per annum: Provided always, that before the issuing of any such Debentures or Corporation Bonds, the said Corporation shall have enacted and ordained a By-law specifying the principal streets, lanes and public places, within the limits of the City, which are to be supplied with Gas, and shall, after duly advertising for tenders, have entered into a contract with the lowest bidder, giving security to their satisfaction for the performance of the work and for keeping the same in good repair for three years, at a sum not exceeding thirty thousand pounds, including the necessary real property and materials.

VI. And be it enacted, That all the revenues arising from or out of the supplying of Gas, or from the property, moveable or immovable, connected with the said Gas Works, to be acquired by the said Corporation under this Act, shall, after providing for the interest accruing on the Debentures or Corporation Bonds issued by the said Corporation in pursuance of this Act, and the expenses attendant upon the maintenance of the said Gas Works, be formed into a separate fund and applied towards the extinction of the principal of the debt incurred in the establishment thereof; and the said Corporation is hereby strictly prohibited and enjoined from applying any surplus revenue arising from the Gas Works to any other purpose whatsoever, until the whole of the said debt and interest shall have been fully and completely discharged and extinguished, after which such surplus revenue shall make part of the general funds of the Corporation, and may be applied accordingly.

Revenues arising from the Gas Works to be applied to the payment of the principal and interest of money borrowed.

VII. And be it enacted, That the said Gas Works, and also the land to be acquired for the purposes aforesaid, and every matter and thing therewith connected, shall be and they are hereby specially charged, pledged, mortgaged and hypothecated for the repayment of any sum or sums which may be borrowed by the said Corporation for the purposes of this Act, as well as for the due and punctual payment of the interest thereupon; and all, each and every of the holders of the said Debentures shall have a concurrent pledge, hypothec or privilege on the said property, for securing the payment of the said Debentures and the interest thereon.

Holders of debentures to have a special privilege on the Gas Works, &c.

VIII. And be it enacted, That receipts for any interest due on all Debentures or Corporation Bonds that shall lawfully be issued by the authority of this Act, and which shall from time to time remain undischarged and uncanceled, as well as such Debentures or Corporation Bonds themselves, shall and may, after the period therein appointed for the payment of either thereof, be received and taken, by the Treasurer of the said City, from any person making payment to him upon any account or for any cause whatever, on account of the said City, and that the same shall be deemed and taken as money, and as such shall be charged against and credited to such Treasurer aforesaid in his accounts with the said City: Provided always, that no interest shall run or be paid upon or for any such Debenture during the time such Debenture or Corporation Bond so paid shall remain in the hands of the Treasurer as aforesaid, but for such time the interest on every such Debenture or Corporation Bond shall cease.

Debentures due or the interest thereon may be paid to the City Treasurer in payment of any debt due the City.

Interest not to run on Debentures when in the hands of the City Treasurer.

IX. And be it enacted, That the person or persons who shall pay any such Debenture or Corporation Bond so bearing interest, to the City Treasurer aforesaid, shall, at the time of making such payment, put his or her or their name or names, and write thereupon in words at length, the day of the month and year in which he, she or they so paid such Debenture or Corporation Bond, bearing interest; all which the said City Treasurer shall take care to see done and performed accordingly; and to the day so ascertained, the said City Treasurer shall be allowed the interest which he shall have paid or allowed upon such Debenture or Corporation Bond in his accounts with the said City.

Persons paying Debentures to City Treasurer, to indorse the time of payment.

X. And be it enacted, That if any person or persons shall forge, alter or counterfeit any such Debenture or Corporation Bond which shall be issued under the authority of this Act and remaining uncanceled, or any stamp, indorsement or writing therein or thereon, or tender in payment any such forged, altered or counterfeited Debenture or Corporation

Punishment on persons forging, altering or issuing forged or counterfeited Debentures.

Corporation Bond, or any Debenture or Corporation Bond with such counterfeit indorsement or writing thereon or therein, or shall demand to have such altered or counterfeit Debenture or Corporation Bond or any Debenture or Corporation Bond, with such altered or counterfeit indorsement or writing thereon or therein, exchanged for ready money by any person or persons who shall be obliged or required to exchange the same, or by any other person or persons whomsoever, knowing the Debenture or Corporation Bond, so tendered in payment or demanded to be exchanged, or the indorsement or writing thereon or therein to be forged and counterfeit, and with intent to defraud the said City, or the person appointed to pay off the same, or any of them, or any other person or persons, bodies politic or corporate, then every such person or persons so offending, being thereof convicted, shall be adjudged a felon and shall be liable, at the discretion of the Court before which he, she or they may be tried, to be confined at hard labour in the Provincial Penitentiary, for any period not less than three years, or to be imprisoned in any other prison or place of confinement for any period not exceeding two years.

City Treasurer to indorse the payment of interest on Debentures.

XI. And be it enacted, That it shall be the duty of the City Treasurer aforesaid, whenever called upon to pay or allow the interest upon any of the Debentures or Corporation Bonds issued under the authority of this Act, to take care to have the same indorsed on such Debenture or Corporation Bond at the time of payment thereof, expressing the period up to which the said interest shall have been so paid.

Corporation by notice to call in Debentures over due, and interest to stop on all Debentures called in after six months shall have expired.

XII. And be it enacted, That at any time after the Debentures or Corporation Bonds or any of them that shall be issued under the authority of this Act, shall respectively become due according to the terms thereof, it shall and may be lawful for the Corporation aforesaid, if they shall think proper so to do, to direct a notice to be inserted in two or more of the newspapers published in the said City, in the English and French languages, requiring all holders of the said Debentures or Corporation Bonds to present the same for payment, according to the conditions thereof, and if after the insertion of such notices for three months, any Debentures or Corporation Bonds then payable shall remain out more than six months from the first publication of such notice, all interest on such Debentures or Corporation Bonds, after the expiration of the said six months, shall cease and be no further payable in respect of the time which may elapse between the expiration of the said six months, and their presentment for payment.

Corporation may call in Debentures before they are made payable and after six months notice all interest thereon to be stopped.

XIII. And be it enacted, That whenever it shall be deemed expedient by the said Corporation to redeem the said Debentures or Corporation Bonds, or any of them, at any time prior to the date at which the same may be made payable, with a view to diminish the debt to be contracted in the establishment of the said Gas Works, it shall and may be lawful for the said Corporation to direct a notice to be inserted in all the newspapers published in the said City of Quebec, requiring all holders of the said Debentures or Corporation Bonds to present the same for payment, and if after the insertion of such notice for three months, any Debentures or Corporation Bonds, then issued, shall remain out more than six months after the first publication of such notice, all interest on such Debentures or Corporation Bonds, after the expiration of the said six months, shall cease and be no further payable in respect of the time which may elapse between the expiration of the said six months, and their presentment for payment.

XIV. And be it enacted, That nothing in this Act contained, shall extend or be construed to extend to diminish the power and authority of the Corporation aforesaid, hereafter to borrow money on the credit of the said City, for the general uses and purposes of the said City, as fully and effectually as though the said City were not indebted for the cost of the Gas Works as aforesaid, or that Debentures or Corporation Bonds had not been issued by them for the amount or purchase thereof, or as if this Act had not been passed; any Act, Statute or Law, or provision thereof to the contrary notwithstanding.

Corporation not to be prevented from borrowing money for the general purposes of the City as heretofore.

XV. And be it enacted, That the said Corporation shall be, and they are hereby required to keep or cause to be kept separate books and accounts of the receipts and disbursements for and on account of the said Gas Works, distinct from the books and accounts relating to the other property, funds or assets belonging to the said City, and shall annually, on or after the first day of January in each and every year, cause a statement of the affairs of the said Gas Works to be published in two or more of the newspapers of the said City, in the English and French languages, wherein shall be stated, the amount of the rents, issues and profits, arising from the said Gas Works, the number of tenants supplied with Gas, the extent and value of the moveable and immoveable property thereunto belonging, the amount of Debentures or Corporation Bonds then issued and remaining unredeemed and uncanceled, and the interest paid thereon, or yet due and unpaid; the expenses of collection and management, and all other contingencies, salaries of Officers and servants, the cost of repairs, improvements and alterations, the prices paid for the acquisition of any real estate that may be required for the use of the said Gas Works, as also the value received for any real estate that may be sold and disposed of by the said Corporation, and generally such a statement of the revenue and expenditure of the said Gas Works as will at all times afford to the Citizens of the said City of Quebec, a full and complete knowledge of the state of the affairs of the said Gas Works, and the matters therewith connected.

Particular statements of the revenue and expenditure of the Gas Works to be kept and annually published.

XVI. And be it enacted, That it shall be lawful for the said Corporation, before or after the said Gas Works are commenced, to lease, assign, transfer and make over the rights, privileges, powers, and authorities hereby conferred for such period not exceeding twenty years, and upon such terms and conditions as may be established by a By-law to be by them made in that behalf; and at the end of such period (or sooner by consent of parties) it shall and may be lawful for the said Corporation to re-purchase the same in the manner and by the means aforesaid, and thereupon to establish the said Works in the same manner and way as if the same had been made and completed by the said Corporation according to the provisions of this Act.

The Corporation authorized to transfer the powers conferred by this Act.

XVII. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to prevent the Legislature of the Province at any time hereafter, from altering, modifying or repealing the powers, privileges or authorities hereinbefore granted to or obtained by the said Corporation.

Act not to bind the Legislature.

XVIII. And be it enacted, That nothing herein contained shall affect or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any bodies politic or corporate, except such only as are herein mentioned.

Rights of the Crown, &c., saved.

Limitation of
Actions.

XIX. And be it enacted, That if any action or suit shall be brought against any person or persons for any thing done in pursuance of this Act, the same shall be brought within six calendar months next after the fact committed, or in case there shall be a continuation of damages, then within six calendar months after the doing or committing such damages shall cease, and the Defendant or Defendants shall and may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance of and under the authority of this Act; and if it shall appear to have been so done, or if any such action or suit shall be brought after the time before limited for bringing the same, then the Judgment shall be entered for the Defendant or Defendants, or if the Plaintiff or Plaintiffs shall become nonsuit or shall suffer discontinuance of his or their action or suit, after the Defendant or Defendants shall have appeared, or if a Judgment shall be entered against the Plaintiff or Plaintiffs, or if upon exceptions or otherwise, Judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have treble costs, and shall have such remedy for the same as any Defendant hath for costs of suits in other cases of law.

General issue
and special
matter in evi-
dence.

Treble costs.

Ordinances
and Act incor-
porating the
City of Quebec
in so far as
they are not
repugnant to
this Act, to
govern any
matter required
under this Act.

XX. And be it enacted, That all the enactments and provisions of the Ordinance of the Governor and Special Council of the late Province of Lower Canada, passed in the third and fourth years of Her Majesty's Reign, and intituled, *An Ordinance to incorporate the City and Town of Quebec*, as amended by a certain Ordinance of the Governor and Special Council aforesaid, passed for that purpose in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to amend the Ordinance to incorporate the City and Town of Quebec*, and both Ordinances as amended by the Act passed in the last Session of the Legislature of this Province intituled, *An Act to amend the Ordinances incorporating the City of Quebec*, shall, in so far as they shall not be repugnant to or inconsistent with the express enactments and evident intent of this Act, extend to and govern each and every act and thing required or authorized to be performed and done, under the authority of this Act, as if this Act had formed part of the said last mentioned Ordinances, or of either of them.

All Acts or
Provisions or
law repugnant
to or inconsis-
tent with this
Act to be re-
pealed except
as to past
transactions.

XXI. And be it enacted, That all Acts or provisions of Law in force in this Province, or in any part thereof, before or up to the time when this Act shall come into force, which shall be inconsistent with or contradictory to this Act, or which make any provision in any matter provided for by this Act, other than such as is hereby made in such matters, shall, from and after the time when this Act shall come into force, be and they are hereby repealed, except in so far as may relate to any circumstance, act or thing occurring, done, or effected before the commencement of this Act, which shall be dealt with, adjudged upon, and determined as if this Act had not been passed.

To be deemed
a Public Act.

XXII. And be it enacted, That this Act shall be and is hereby declared to be a Public Act, and shall as such be judicially taken notice of by all Judges, Justices and other persons in this Province, without being specially pleaded.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXXV.

An Act to Incorporate the Town of Kingston as a City.

[18th May, 1846.]

WHEREAS an Act was passed by the Parliament of Upper Canada, in the first year of the Reign of Her present Majesty, intituled, *An Act to Incorporate the Town of Kingston, under the name of The Mayor and Common Council of the Town of Kingston*; And whereas, from the increase in the trade and population of the said Town it is found that the provisions of the said Act are insufficient, and it is expedient for the better protection and management of the local interests of the inhabitants that the said Town should be incorporated as a City: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said recited Act incorporating the Town of Kingston, and all other Acts and parts of Acts repugnant to or inconsistent with the provisions of this Act be, and the same are hereby repealed: Provided always, that the repeal of the said Acts and parts of Acts shall not be held to revive or give any force or effect to any enactment which has by the said Acts or any of them been repealed or determined.

Preamble.
U. C.
1 Vict. c. 27,
cited.

The said Act
and all other
Acts repug-
nant to this
Act, repealed.
Proviso.

II. And be it enacted, That the inhabitants of the City of Kingston, as hereinafter described, and their successors inhabitants of the same, shall be and they are hereby constituted a Body Corporate and Politic in fact and in name, by and under the name, style and title of *The City of Kingston*, and as such shall have perpetual succession and a Common Seal, with power to break, renew, change and alter the same at pleasure, and shall be capable of suing and being sued, and of impleading and being impleaded in all Courts of Law and Equity, and other places, in all manner of actions, causes and matters whatsoever, and of accepting, taking, purchasing and holding goods and chattels, lands and tenements, real and personal, moveable and immoveable estates, and of granting, selling and alienating, assigning, demising and conveying the same, and of entering into and becoming a party to contracts, and of granting and accepting any bills, bonds, judgments, or other instruments or securities, for the payment or securing of the payment of any money borrowed or lent, or for the performance or securing the performance of any other duty, matter or thing whatsoever.

Inhabitants of
Kingston con-
stituted a Cor-
poration.

Name and
powers.

III.

What shall
constitute the
City of King-
ston.

III. And be it enacted, That the Town of Kingston shall from henceforth constitute the City of Kingston.

City divided
into five
Wards.

IV. And be it enacted, That the said City shall be and the same is hereby divided into five Wards, to be called respectively Sydenham Ward, Ontario Ward, Saint Lawrence Ward, Frontenac Ward, and Cataraqui Ward.

Limits of
Sydenham
Ward.

V. And be it enacted, That Sydenham Ward shall consist of all that part of the said City lying westward and southward of a line drawn from the foot of William Street through the centre of said street to the limits of the said City.

Ontario Ward.

VI. And be it enacted, That Ontario Ward shall consist of all that part of the said City lying between the last mentioned line of Sydenham Ward and a line drawn from the foot of Brock Street through the centre of said street to the limits of the said City.

St. Lawrence
Ward.

VII. And be it enacted, That Saint Lawrence Ward shall consist of all that part of the said City lying between the last mentioned line of Ontario Ward and a line drawn from the foot of Princess Street, through the centre of the said street to the limits of the said City.

Cataraqui
Ward.

VIII. And be it enacted, That Cataraqui Ward shall consist of all that part of the said City lying eastward and northward of a line drawn from the foot of Princess Street, through the centre of said Street to Montreal Street; thence through the centre of said Montreal Street and across the Artillery Reserve to the present travelled Road known as the "Montreal Road;" thence through the centre of the said Road to the limits of the said City.

Frontenac
Ward.

IX. And be it enacted, That Frontenac Ward shall consist of all that part of the said City lying northward of the last mentioned line, running through the centre of Montreal Street and the Montreal Road to the City limits, and northward and eastward of a line extending from Montreal Street (where it intersects Princess Street) through the centre of Princess Street to the limits of the said City.

Of what the
Harbour shall
consist.

X. And be it enacted, That the Harbour of the said City shall consist of all the water lying between the front of the said City and the opposite shore of the Township of Pittsburgh as far as Point Frederick, (except such parts as may belong to private individuals, or be under the direct control of Her Majesty's Naval or Military authorities,) and beyond Point Frederick all the water lying in front of the said City (except as aforesaid) which may be distant five hundred yards from the main shore of Wolfe Island, and that from henceforth the said Harbour shall vest in the said City Council and their successors, legally constituted: Provided always, that it shall not be lawful for the said City Council or their successors to make or construct, or cause to be made or constructed, any work or building of any kind whatsoever, within or upon any part of the said Harbour hereby vested in the said City Council, unless the making or constructing of such work be authorized by the Governor of the Province, by and with the advice and consent of the Executive Council thereof, or by the Commander in Chief of Her Majesty's Forces in this Province, or by the Principal Officers of Her Majesty's Ordnance.

Proviso as to
works in the
Harbour.

XI. And be it enacted, That there shall be chosen and elected, in manner hereinafter mentioned, one fit person who shall be and be called the Mayor of the said City, and a certain number of fit persons who shall be and be called Aldermen of the said City, and a certain number of fit persons who shall be and be called Councillors of the said City; and such Mayor, Aldermen and Councillors, for the time being, shall be and be called the "City Council."

Mayor, Aldermen and Councillors to be appointed, and called "City Council."

XII. And be it enacted, That for every Ward within the limits of the City, two Aldermen and two Councillors shall be chosen annually, in manner hereinafter mentioned, and the Aldermen and Councillors shall choose from among the Aldermen, by vote of the majority of such Aldermen and Councillors, one person to be the Mayor of the City, and in case it shall happen that the votes shall be equally divided, then that Alderman, other than the Alderman proposed for Mayor, who shall have been rated upon the last assessment list of the City for the greatest amount of property, shall give a second or casting vote and determine the choice; and the said Mayor shall be so chosen on the Saturday next after the annual Ward elections, or the Saturday next after the first election held under this Act, and shall hold office for one year, or until his successor be appointed, but may be capable of being re-elected: Provided that the term of office of the first Mayor so chosen under this Act, shall expire on the second Tuesday in January next.

Two Aldermen and two Councillors to be chosen for each ward, and one Mayor.

Term of office of Mayor.

Proviso.

XIII. And be it enacted, That no person shall be eligible to be elected an Alderman of the City, unless he shall have been a resident householder within the City, or such part of the adjacent County of Frontenac, as may be distant not more than three miles from the market square of the said City, for four years next before the election, and being so resident at the time of the election, shall at that time be possessed to his own use and benefit of real property within the City, in freehold, which shall be assessed under the then last assessment list at forty pounds or upwards, or shall be so possessed of real property for a term of years, or from year to year, which shall be assessed as aforesaid at fifty pounds or upwards, or shall be in the receipt of fifty pounds or upwards of yearly rent or profit accruing from or out of real property within the City; and that no person shall be eligible to be elected a Councillor unless he shall have been resident within the City, or such part of the adjacent County of Frontenac as may be distant not more than three miles from the market square of the said City, for three years next before the election, and being so resident at the time of the election, shall at that time be possessed to his own use and benefit of real property within the City, in freehold, which shall be assessed under the then last assessment list of the City at twenty-five pounds, or shall be so possessed of real property for a term of years, or from year to year, which shall be assessed as aforesaid at thirty pounds or upwards, or shall be in the receipt of thirty pounds or upwards of yearly rent or profit accruing from or out of real property within the City.

Qualification of Aldermen;

Of Councillors.

XIV. And be it enacted, That no person shall be eligible to be elected an Alderman or Councillor of the said City, or to vote at any Corporation election, who shall not be a natural-born or naturalized subject of Her Majesty, Her Heirs or Successors, and of the full age of twenty-one years at the time of being enregistered as hereinafter mentioned.

Aliens or minors not to be Aldermen and Councillors.

How Aldermen and Councillors of City to be elected.

Qualification of electors.

Proviso.

Proviso.

Proviso.

Aldermen and Councillors to be chosen annually in each of the Wards.

In case of equality, Returning Officer to give casting vote.

Proviso.

Mayor to be *ex officio*, a Justice of the Peace.

Salary of Mayor.

XV. And be it enacted, That the Aldermen and Councillors of the City shall be elected respectively by the majority of votes of such enregistered male resident inhabitants of the City as shall have actually paid their taxes due at the time of their being enregistered as voters, and as shall be possessed, in freehold, three months next before the twenty-fourth day of December in the year next preceding the election, of a town lot situate within the Ward for which the election shall be holden, assessed under this Act at the yearly value of five pounds, currency, or as shall be possessed as aforesaid, in freehold, or as tenant for a term of years, or from year to year, of a town lot or dwelling house situate within the Ward for which the election shall be holden so assessed at the yearly value of ten pounds, currency, or upwards, or as shall be *bonâ fide* owners of a dwelling house situated as aforesaid, built upon ground leased for a term of not less than three years, and so assessed at the yearly value of ten pounds, currency, or as shall be possessed as aforesaid, in freehold or as tenants from year to year or for a term of years of any warehouse, counting house, shop, office or store, situated as aforesaid, so assessed in their own name at the yearly value of twenty pounds, currency, or upwards, or of such enregistered persons as are resident not more than three miles as aforesaid from the market square of the said city, who shall be so assessed as aforesaid to the amount of fifty pounds, currency, or upwards; Provided always, that the yearly value and assessment of the premises aforesaid shall be ascertained from the then last Town or City assessment list; and that no such assessment shall be held to qualify any other person as a voter for such premises than the one named in such list as assessed for such premises; and provided also, that every yearly tenant as aforesaid paying a rent of ten pounds, currency, per annum, for his own use and benefit shall be allowed to vote, whether his premises have a separate entrance from or communication to the street or not; and provided also, that no person shall vote at any such election who has not been a resident inhabitant of the city or within the distance of three miles as aforesaid, for a period of twelve calendar months next before the time of his being enregistered as a voter.

XVI. And be it enacted, That the Aldermen and Councillors shall be chosen annually in each of the said Wards on the second Tuesday in January by the qualified registered voters, who shall openly assemble for the purpose, and the name of each elector voting at such election shall be written in a Poll List, to be kept at such election by the Returning Officer or his Clerk, and at the final close of the poll the Returning Officer shall declare the number of votes given for such candidate; and shall also declare those persons having the majority of votes in their favour to be duly elected Aldermen or Councillors, as the case may be, and in case of the equality of votes for two or more persons at the close of the poll, it shall be lawful for the Returning Officer, and he is hereby required, whether otherwise qualified or not, to give a casting vote for one of the persons having such equality of votes, and so determine the election; and the Poll Lists, so kept, shall, by three o'clock in the afternoon of the day after the day of election, be delivered by the Returning Officer, with the Return thereon, to the City Clerk: Provided always, that no Returning Officer (except as aforesaid) or his Clerk shall vote at any such election.

XVII. And be it enacted, That the Mayor of the said City for the time being shall, by virtue of his office, be a Justice of the Peace in and for the said City.

XVIII. And be it enacted, That it shall and may be lawful for the Council, if they shall see fit so to do, to give and grant to the Mayor for the time being, in lieu of all fees

fees and perquisites, such salary, not exceeding one hundred pounds, as they shall think fit, payable out of the revenues of the City.

XIX. And be it enacted, That the Legislative power of the City of Kingston shall be and is hereby vested in the Council, to be composed of the Mayor, Aldermen and Councillors as aforesaid, and every Legislative Act of the said City shall express to be enacted by the "City Council of the City of Kingston."

Legislative powers of the Council and style of enactment.

XX. And be it enacted, That a majority of the Members of the Council, including the Mayor or presiding Alderman, shall compose a *quorum* for the despatch of business; and that in case of the absence of the Mayor, the assembled Aldermen and Councillors shall choose an Alderman to be their Chairman; Provided always, that a smaller number may adjourn from time to time, and may be authorized to compel the attendance of absent members in such manner and under such penalties as may be provided for by a By-law of the Council; and provided also, that no such *quorum* shall be constituted without the presence of at least four Aldermen.

Majority of Members to be a *quorum*.

Proviso: A smaller number may adjourn, &c. Proviso.

XXI. And whereas a provision for the registry of voters has been found equitable and convenient: Be it enacted, That before the first day of October, in every year, the Assessor of each Ward shall make out from the last Assessment Roll an alphabetical list of the voters qualified to vote at the election of Aldermen and Councillors in that Ward, to be called the "Voters' List," to which he shall add the names of all such persons not on the said Assessment Roll as he knows are then entitled to vote at such election according to the provisions of this Act; and the said Assessor shall sign such List, certifying that it is correct to the best of his knowledge and belief, (and shall also keep a true copy thereof,) which list he shall deliver to the City Clerk to be by him submitted to the Board of Revisors.

Registry of voters provided for. List how made.

XXII. And be it enacted, That the said List shall be hung up in the City Hall for the examination of all concerned, at reasonable hours, from the first day of October to the twentieth day of November, of which fact the City Clerk shall give immediate public notice either by printed placards or by advertisement in not less than three of the City newspapers, and any person who shall claim to be added to the said Voters' List, or any elector who shall desire to have any name expunged therefrom, shall prefer his request in writing signed with his name, stating the Ward to which he belongs, and shall cause the same to be delivered to the City Clerk before the said twentieth day of November.

List to be hung up in City Hall for examination.

XXIII. And be it enacted, That on and before the first Monday in March in every year, (except the year of the passing of this Act) the City Council shall choose from among their own number four Aldermen, who, together with the Mayor for the time being, shall be and constitute a Board of Revisors, any three of whom shall be a *quorum*, to revise the Voters' List as furnished by the Assessors of the various Wards, and decide according to the best of their judgment upon the claims previously made as aforesaid for the insertion or omission of names in or from the said Lists, and which said Board shall, on their first day of meeting, be duly sworn by one Justice of the Peace of the Midland District well and impartially to perform their duties as such Revisors; and the said Board shall give public notice before their first day of sitting of the order in which they will take up the Lists of the several Wards, and they shall meet on the twenty-first

City Council to choose a Board of Revisors to revise Voters' list.

Board to be sworn.

To give public notice before first day of sitting.

Board to decide upon additions or erasures to or from Voters' list.

Lists to be certified.

Proviso.

Proviso.

Voters' lists when settled to be hung up again in City Hall.

No oath but of identity to be afterwards required.

City Council to appoint Returning Officer for each Ward.

Officer to be sworn.

Certain persons disqualified from being elected as Aldermen or Councillors.

Physicians or Surgeons practising exempted.

City Council to direct elections to supply vacancies which may occur at certain times.

twenty-first day of November, (or on the day following if that day be a Sunday,) at ten o'clock in the forenoon, for the purpose of hearing persons concerned in making the said claims and deciding upon them, and shall adjourn from day to day until all the Voters' Lists are revised and settled; and the presiding Officer of the said Board for the time being shall have power to examine persons upon oath respecting the said claims and all matters connected with the revision of the said Lists; and the said Board, after hearing the best evidence of which the cases will admit, shall and they are hereby required to decide upon and make the necessary additions or erasures to or from the said Voters' Lists in relation to the applications before them; and the said Board shall also have power to correct any mistake or supply any accidental omission made by the Assessors in the said Lists; and the said Lists, so revised and settled, shall be signed by the presiding Officer of the said Board, and sealed with the City Seal, and shall be the only correct Voters' List: Provided always, that the said Lists shall be finally completed before the twentieth day of December; and provided also, that no person's name shall be expunged from any of the said Lists without his being informed of the claim to that effect and having an opportunity to be heard in reference thereto.

XXIV. And be it enacted, That the Voters' Lists for each Ward, when so settled and signed, shall be again hung up in the City Hall until the day of election and also filed in the office of the City Clerk, and certified copies thereof under the City Seal shall be by him transmitted to the Returning Officers of the several Wards in the City not less than five days before any such election; and that every person whose name shall appear in such Ward List shall be entitled to vote at the election for such Ward without any further enquiry as to his qualification, and without taking any oath other than that he is the person named in such List, and has not before voted at such election, which oath the Returning Officer is hereby required and authorized to administer.

XXV. And be it enacted, That the City Council shall, at least ten days before the Annual Ward Elections, appoint under their Seal a Returning Officer for each of the Wards, whose duty it shall be to hold the election therein, beginning at ten o'clock in the forenoon and continuing not later than six o'clock in the afternoon, and who shall give five days' previous notice by written or printed placards in at least six different public places in the said Ward of the place where such election is to be held; and the said Returning Officer, previous to the day of the said election, shall be sworn by the Mayor or any two of the Aldermen well and faithfully to hold and determine the said election.

XXVI. And be it enacted, That no person being in Holy Orders, or being a Minister or Teacher of any Religious Sect or Congregation, nor any Judge or Judges, nor any Ministerial Law Officers of the Crown, nor any Military, Naval or Marine Officer in Her Majesty's service on full pay, nor any person accountable for the City revenues, or holding office under the Council, nor Returning Officer or his Clerk while so employed, shall be capable of being elected an Alderman or Councillor, neither shall any practising Physician or Surgeon be compelled to serve in either of those offices.

XXVII. And be it enacted, That in case any vacancies shall happen among the Aldermen (elected as such) and Councillors, by death, resignation, removal out of the City for a greater distance therefrom than three miles as aforesaid, or other disqualification within the first six months of any calendar year, it shall be lawful for the City Council

Council to direct an election to supply such vacancy for the Ward in which the same occurs, and to appoint a time and place for holding such election, and the Returning Officer appointed to hold such election shall conduct the same in manner hereinbefore provided for the holding of the regular Annual Elections; Provided always, that at such special election the persons named in the Voters' List of the then last previous election shall be the proper voters; Provided also, that no Alderman or Councillor shall resign his office unless first approved of by the City Council, under a penalty of twenty pounds.

Proviso.

Proviso.

XXVIII. And be it enacted, That if any of the said vacancies shall occur in the last six months of any calendar year, the vacancy shall be supplied at the regular annual election for the Ward: Provided always, that any person elected to supply either of the above mentioned vacancies, shall hold his office only for the residue of the term of office of his immediate predecessor.

Certain vacancies to be supplied at regular annual election.

Proviso.

XXIX. And be it enacted, That on the day of his election, the Mayor shall be sworn into office by the Judge of the District Court of the Midland District, or in his absence by any two of the Justices of the Peace of the said District, who are hereby required to administer the following oath:

Mayor to be sworn on day of his election.

"I, do swear that I will well and faithfully discharge the duties of Mayor of this City, to the best of my knowledge and ability."

Oath.

XXX. And be it enacted, That the Aldermen and Councillors on their part shall each take an oath that they will well and faithfully discharge the duties of their respective offices, which oath shall be administered at the first meeting after their election by the Mayor or any other Justice of the Peace of the Midland District.

Aldermen and Councillors to take an oath of office.

XXXI. And be it enacted, That in case of any vacancy in the office of Mayor, by death, removal out of the City, or to a greater distance therefrom than three miles as aforesaid, or other disqualification, it shall be lawful for the remaining members of the City Council at a special meeting to be summoned by the City Clerk for the purpose, to elect from among the Aldermen a successor to such Mayor, who shall hold office for the remainder of the term of service of his immediate predecessor: Provided always, that a continued absence from his duties for a period of three successive months shall be deemed a disqualification for office under this clause.

In case of vacancy in office of Mayor, City Council to elect a successor.

Proviso.

XXXII. And be it enacted, That the City Council shall meet at least on the first Monday in every month, and on such other days as they may appoint; and it shall be lawful for the Mayor to call special meetings whenever urgent business may require.

Time of meetings of City Council.

XXXIII. And be it enacted, That the Mayor shall preside at the meetings of the City Council, (unless when the Council for the convenience of discussion shall resolve itself temporarily into a Committee of the whole,) and on all questions in Council the said Mayor or the presiding Alderman shall first vote as a member of the Council, and in case the votes be then equally divided, he may give a second or casting vote, and determine the question.

Mayor to preside at the meetings, and to have a casting vote.

XXXIV.

Council may
appoint Com-
mittees.

XXXIV. And be it enacted, That it shall be lawful for the said Council to appoint from and out of the members thereof, such and so many Committees consisting of such numbers of persons as they may think fit for the better transaction of the business before the Council, and for the discharge of such duties within the scope of their powers, as may be by the Council prescribed, but subject in all things to the approval, authority and control of the said Council.

Council to be a
Court of Re-
cord: and to
have certain
powers accord-
ingly.

XXXV. And be it enacted, That the said City Council shall be a Court of Record, and shall have the same power to punish for contempt as is by law vested in any other Court of Record; and the said Council shall have authority to punish its members for disorderly or disgraceful behaviour, by fine, and to expel a member convicted of any crime before a legal tribunal, and the member so expelled shall by such expulsion forfeit all his rights and powers as an Alderman or Councillor.

Council to de-
termine rules
of proceedings,
&c.

XXXVI. And be it enacted, That the said City Council shall determine the rules of its proceedings, and judge of the qualifications, election and return of its members, and the said Council shall keep a journal of all business transacted, and during its meetings the doors shall always be kept open, except only when the Council are engaged in discussions relative to the misconduct of members of their own body, and in that case the doors shall not be closed except approved of by three-fourths of the members present.

Open doors.

Resolutions,
&c. concerning
specific im-
provements,
&c., to be pub-
lished eight
days before
adopted.

XXXVII. And be it enacted, That all resolutions, reports, and drafts of By-laws concerning any specific improvement, or the appropriation of any public money, or the taxing or assessing the inhabitants of the said City, shall be published in at least two and not more than three newspapers of the said City eight days before the same shall be adopted, and whenever the vote is taken on any such Resolution, Report, or By-law, the yeas and nays shall be recorded on the journals.

By-laws to be
signed by
Mayor and
sealed with
Seal of Corpo-
ration: and
open to public
inspection.

XXXVIII. And be it enacted, That immediately after any By-law shall be passed by the City Council, it shall be signed by the Mayor, and sealed with the Seal of the City, and enrolled, and such By-law shall thenceforth go into effect as a Law of the City of Kingston, and all such laws, together with this Act and all other Acts of Parliament particularly relating to the said City, shall be entered *verbatim* in one or more books to be procured and kept for that purpose among the archives of the said City, and be open to the public for inspection at all reasonable hours.

Council to
publish annu-
ally a detailed
account of
state of finan-
ces of City.

XXXIX. And be it enacted, That the said Council shall be required to publish annually in the last week of December, a detailed account of the state of the Finances of the City, and also a detailed account of the receipt and expenditure of all sums of money that may have been paid into and from the City Treasury during the past year.

Appointment
of City Clerk.

XL. And be it enacted, That it shall be lawful for the City Council from time to time to appoint a fit and proper person not being a member of the said Council to be the City Clerk, with such salary as they shall deem proper, and to remove the said Clerk at their pleasure.

City Treasu-
rer.

XLI. And be it enacted, That it shall be lawful for the City Council from time to time to appoint a fit and trustworthy person, not being a member of the City Council
or

or their Clerk, to be the City Treasurer, with such salary or allowance as they shall deem proper, and to remove the said Treasurer at their pleasure; and the said Treasurer shall, at the end of every quarter of the calendar year, render a correct account to the City Council of his receipts and expenditures as Treasurer, shewing the balance from the last quarter, and shall give a bond with two sureties conditioned for the due performance of the duties of his office as required by this Act and by the said Council, and also that he will publish annually in the last week of December, in all the newspapers of the said City, a detailed account of the state of the Finances of the said City, and also a detailed account of the receipts and expenditures of all sums of money that may have been paid into the Treasurer's hands during the current year, and if the Treasurer shall at any time neglect or refuse so to do, such neglect or refusal shall be held to be a forfeiture of his office, and to render him incapable of reappointment.

His duties and liabilities.

XLII. And be it enacted, That it shall be lawful for the City Council to appoint annually, such and so many Assessor or Assessors for the said City, not to exceed one for each Ward, as they may consider convenient for the public interests, to prescribe the limits in which they shall perform their duties, the securities which they shall give and the remuneration which they shall receive; and the said Assessor or Assessors shall be sworn by the Mayor or senior Alderman well and faithfully to perform the duties of their office.

City Council to appoint an Assessor or Assessors annually.

XLIII. And be it enacted, That it shall be lawful for the City Council to provide by a By-law, that all the taxes to be collected in the said City by virtue of this Act shall be paid directly to the City Treasurer at such days and times as they shall appoint; but no person shall be liable to a distress and sale of his or her goods and chattels in default of payment of such taxes, unless the said Treasurer shall have caused to be left at the present or last place of abode of such person, a written or printed notice stating the amount of such taxes and demanding payment thereof, fourteen days before the warrant to distrain for such taxes shall issue.

City Council to provide by By-law that City taxes be paid to Treasurer after notice.

XLIV. And be it enacted, That it shall be lawful for the City Council from time to time to appoint one City Surveyor, one City Bailiff, one City Inspector, one Harbour Master, one or more Inspectors of Lumber, Beef, Pork, Flour, Pot and Pearl Ashes, one Inspector of Weights and Measures, one Chimney Viewer, one or more Pound Keepers, and one or more Clerk of the Market or Markets, one Chief Constable of Police, and as many Sub-Constables or other Constables as may be necessary, with such salaries, wages and allowances as the said Council shall consider proper, and who shall hold their situations during pleasure, and which City Bailiff, Chief Constable and other Constables may be sworn in by the Mayor, or any other Justice of the Peace of the Midland District, and shall by virtue of their office be Constables of the Midland District.

City Council may appoint Surveyor, Bailiff, Inspector, Harbour Masters, Inspectors of Lumber, Beef, &c., Chimney Viewer and other Officers.

XLV. And be it enacted, That every City Clerk, City Treasurer or other Officer appointed by the City Council shall, whenever required at such times during the continuance of his office, or within three months after the expiration thereof, and in such manner as the said Council shall direct, deliver to the Council or to such person as they shall authorize for that purpose, a true account in writing of all matters committed to his charge as such Officer, and also of all monies which shall have been by him received as such Officer, or by virtue or for the purposes of this Act, and how much thereof

City Clerk, City Treasurer or other Officer to deliver an account of matters committed to his charge whenever required so to do.

Proceedings
when Officer
shall refuse or
neglect to de-
liver account,
or to pay over
monies in his
hands.

thereof shall have been paid and disbursed and for what purposes, together with proper vouchers for such payments, and also a list of the names of all such persons as shall not have paid the monies due from them by virtue of and for the purposes of this Act and of the amount due from each of them ; and every such Officer shall pay all such monies as shall remain due from him to the Treasurer for the time being or to such person as the said Council shall authorize to receive the same ; and if such Officer shall refuse or wilfully neglect to deliver such account or the vouchers relating to the same, or such list as aforesaid, or to make payment as aforesaid, or shall refuse or wilfully neglect to deliver to the said Council or to such person as they shall authorize within three days after being thereunto required by notice in writing under the hand of the City Clerk, to be given to or left at the last place of abode of such Officer, all books, papers, maps, plans and writings in his custody or power relating to his duties or the execution of this Act, or to give satisfaction to the said Council, or to such other person as aforesaid, respecting the same, then and in every such case, upon complaint made on behalf of the said Council by such person as they shall authorize for that purpose, of any such refusal or wilful neglect as aforesaid, to any Justice of the Peace not a Member of the said Council, acting for the District or other jurisdiction wherein such Officer so refusing or neglecting shall be or reside, such Justice is hereby authorized and required to issue a warrant under his hand and seal for bringing such Officer before any two of the Justices of the Peace for such District or jurisdiction, and upon the said Officer appearing or not being found, it shall be lawful for such Justices to hear and determine the matter in a summary way, and if it shall appear to such Justices that any monies remain due from such Officer, such Justices may and they are hereby authorized and required upon non-payment thereof, by warrant under their hands and seals to cause such monies to be forthwith levied by distress and sale of the goods of such Officer, and if sufficient goods shall not be found to satisfy the said monies and the charges of the distress, or if it shall appear to such Justices that such Officer has refused or wilfully neglected to deliver such account or the vouchers relating thereto or such list as aforesaid, or that any books, papers, maps, plans or writings as aforesaid remain in his hands or in his custody or power, and that he has refused or wilfully neglected to deliver the same or to give satisfaction concerning them, then and in every such case such Justices shall, and they are hereby required to commit such offender to the Common Gaol or House of Correction for the District or jurisdiction where such offenders shall be or reside, there to remain without bail until he shall have paid such monies as aforesaid, or shall have compounded with the said Council for such monies and shall have paid such composition in such manner as they shall appoint (which composition the said Council are hereby empowered to make and receive) or until he shall have delivered a true account as aforesaid, together with such vouchers and lists as aforesaid, or until he shall have delivered up such books, papers, maps, plans and writings, or have given satisfaction in respect thereof to the said Council or to such other person as aforesaid, as the case may be : Provided always, that no person so committed shall be detained in prison for want of sufficient distress only, for a longer space of time than three calendar months : Provided also, that nothing in this Act contained shall prevent or abridge any remedy by action against any such Officer so offending as aforesaid, or against any surety for any such Officer, but such Officer shall not be sued by action and also proceeded against in a summary manner by virtue of this Act for the same cause : And provided also, that the provisions of this clause shall be and are hereby made applicable to all the Officers at present serving under the authority of the Mayor and Common Council of the Town of Kingston.

Proviso.

Proviso.

Proviso.

XLVI. And be it enacted, That it shall and may be lawful for the City Council from time to time to appoint so many of the members thereof as they shall deem proper, to form a Board of Health to aid and assist the Mayor of the City to carry into effect the provisions of the Statutes which now are or may be passed to preserve the health of the said City, and to prevent the introduction and spreading of infectious and pestilential diseases in the same; and the said Board in conjunction with the Mayor shall have the like power and authority for the purposes aforesaid, as are vested in the Boards of Health established under the provisions of an Act passed in the Parliament of Upper Canada, in the third year of His late Majesty's Reign, intituled, *An Act to establish Boards of Health, and to guard against the introduction of malignant, contagious and infectious diseases in this Province.*

City Council
may appoint a
Board of
Health.

U. C. 3 Will.
4. c. 47.

XLVII. And be it enacted, That the said City of Kingston shall, by its representatives in whom the Legislative power of the City shall be vested as hereinbefore mentioned, have full power and authority from time to time to make, revise, alter, amend, administer and enforce such Laws as they may deem proper for the several purposes following, that is to say :

City Council to
make, revise,
alter, &c., Laws
for certain
purposes.

First. For making, levelling, flagging, paving, macadamizing, raising, repairing, lighting, watching, planting, and cleaning any of the streets, squares, lanes, walks, side-walks, crossings, roads, bridges, wharves, docks, slips, sewers, and shores now laid out and erected or being or hereafter to be laid out and erected within the limits of the City, and to regulate or prevent the encumbering, injuring, or fouling of the same by any animals, vehicles, vessels, craft, lumber, building or other materials or things, or in any way whatsoever, and for the establishing, making, and regulating public fountains, pumps, and wells.

Making, level-
ling, &c.,
streets,
squares, lanes,
&c.

Secondly. For directing and requiring the removal at any time of any door steps, porches, railings, or other erections, projections, or obstructions whatsoever, which may project into or over any public street, square, or road, at the expense of the proprietors or occupants of the real property in or near which such projection or obstruction may be found.

Removing
door-steps, &c.

Thirdly. For surveying by competent persons, and fixing, marking, determining, and settling the boundary lines of the various streets, squares, and roads of the said City, to give names for the said streets, and to affix boards containing such names on the houses at the corners thereof.

Surveying
streets.

Fourthly. For defraying out of the funds of the said City if necessary, the expense of lighting the same or any part thereof with gas, oil, or other substances, and the performing of any kind of work required for the purpose, and for obliging the proprietors or occupiers of real property to allow such work to be done and fixtures placed in or about their premises as may be necessary, such work and fixtures to be done at the expense of the City.

Lighting City
with gas, oil,
&c.

Fifthly. For assessing the proprietors of real property immediately benefitted by such improvements, for such sum or sums as may at any time be necessary to defray the expense of making or repairing any common sewer, drain, flagging, posts or pavement in any public street, square or place, and for regulating the time and manner in which such assessment shall be collected and paid.

Assessing real
property for
local improve-
ments.

Sixthly.

To regulate
and manage
market, &c.

Sixthly. To regulate and manage the present market, and to establish, regulate, and manage any new market; to regulate the place and manner of selling and weighing butcher's meat, hay, straw, fodder, wood, lumber and fish; to restrain and regulate the purchase and manner of selling of all vegetables, fruit, country produce, poultry, and all other articles, or things, or animals exposed for sale, or marketed in the open air; to restrain and regulate the purchase of any such things by hucksters and runners living within the City, and one mile distant from the outer limits thereof; to regulate the measurement, length and weight of coal, lime, shingles, lath, cordwood, and other fuel, and to impose penalties for light weight, or short count or measurement in any thing marketed; to have the exclusive right of regulating weights and measures in the markets, and within the said City, according to the lawful standard, and to seize and destroy such as are not according to the standard; to regulate all vehicles, vessels and other things in which anything may be exposed for sale or marketed in any street or public place, and for imposing a reasonable charge or duty thereon, and establishing the mode in which it shall be paid; to seize and destroy all tainted and unwholesome meat, poultry, fish, or articles of food; and to distrain butcher's meat for the rent of market stalls, and sell the same after six hours' notice.

Vehicles, &c.

To regulate
Harbour, &c.

Seventhly. To regulate the Harbour and the Vessels, Craft and Rafts arriving in it; to impose and collect such reasonable Harbour Dues thereon as may serve to keep the Harbour in good order and provide for the payment of a Harbour Master, and the erection and maintenance of a beacon therein; to regulate and provide for the erection and rent of wharves, piers and docks in the said Harbour, and to prevent the filling up or encumbering the said Harbour.

To regulate
the assize of
Bread.

Eighthly. To regulate the assize and price of Bread, and to provide for the seizure and forfeiture of Bread baked contrary thereto.

To enforce ob-
servance of the
Sabbath, &c.

Ninthly. To enforce the due observance of the Sabbath; to prevent vice, immorality and indecency in the streets or other public places, and to preserve peace, health and good order; to prevent the excessive beating or cruel and inhuman treatment of animals; to prevent the sale of any intoxicating drink to children, apprentices or servants without the consent of their legal protectors; to impose penalties on the keepers of low tippling houses, visited by dissolute and disorderly characters; to license and regulate victualling houses or other houses of refreshment where spirituous liquors are not sold; to license, regulate or prevent billiard tables, bowling alleys or other places of amusement; to restrain or suppress gambling houses, and to enter into them and seize and destroy *rouge-et-noir* and *roulette* tables and other devices for gambling; to restrain and punish all vagrants, drunkards, mendicants and street beggars; to restrain or regulate the licensing of all exhibitions of natural or artificial curiosities, theatres, circuses or other shows or exhibitions for hire or profit.

Exhibitions.

To establish
pounds, &c.

Tenthly. To establish and regulate one or more Pounds and the fees to be taken thereat, and to restrain and regulate the running at large of horses, cattle, swine, goats, dogs, geese and poultry, and to impound the same; to impose a tax on owners or harbourers of dogs; to regulate and prevent dogs running at large, and to kill such as are found running at large contrary to law after public notice given; to abate and cause to be removed all public nuisances; to regulate the construction of privy vaults; to cause vacant lots in central situations, when they become nuisances, to be properly enclosed;

Nuisances.

to

to regulate and prevent the erection or continuance of slaughter-houses, tanneries, distilleries or other manufactories or trades which may prove to be nuisances; to prevent the ringing of bells, blowing of horns, shouting and other unusual noises in the streets and public places; to prevent immoderate riding or driving in the same; to prevent or regulate bathing in any public water in or near the City.

Eleventhly. To regulate and license owners of livery stables, or other owners of horses or carriages letting out the same for hire or profit, carters, porters, butchers or hucksters, and to prevent runners, stage drivers and others in the streets or public places from soliciting and teasing passengers and others to travel in any boat, vessel, stage or vehicle.

To license
livery stable
keepers, &c.

Twelfthly. To establish and regulate a Police for the said City; to establish and regulate one or more Alms-houses and Houses of Refuge for the relief of the poor and destitute; to erect and establish and also to provide for the proper keeping of any Work-house, Gaol, Bridewell or House of Correction that may hereafter be erected in the said City.

To regulate
Police of
City.

Thirteenthly. To erect, preserve and regulate Public Cisterns, Reservoirs or other conveniences for the supply of good and wholesome water or for the extinguishment of fires, and to make reasonable charge for the use thereof, and to prevent the waste and fouling of public water.

Supply of
water.

Fourteenthly. To prevent or regulate the firing of guns or other fire-arms; to prevent or regulate the firing or setting-off of fire-balls, squibs, crackers or fire-works; to prevent or regulate the keeping or transporting of gunpowder or other combustible or dangerous materials, and to erect, regulate and provide for the support by fees of a City Magazine for the storing of gunpowder, belonging to private parties—whether erected within or without the said City, and to compel persons to store therein; to prevent or regulate the use of fire, lights or candles in livery or other stables, cabinet-makers' and carpenters' shops and other combustible places; to prevent or regulate the carrying on of manufactories or trades dangerous in causing or promoting fire, and to regulate and require the safe-keeping of ashes in proper deposits; to make such By-laws as they may deem expedient for the security, safety and advantage of the inhabitants, containing rules, regulations and restrictions to be observed by all persons in the erection of buildings to be built within the said City; to regulate, remove or prevent the construction of any chimney, flue, fire place, stove, oven, boiler or other apparatus or thing in any house, manufactory or business which may be dangerous in causing or promoting fire; to regulate the construction of chimnies as to dimensions and thickness, and to enforce the proper sweeping or cleaning of the same by licensed or other chimney sweepers; to guard against the calamities of fire by regulating and enforcing the erection of party walls, and preventing wooden buildings being erected in the thickly-built parts of the City; to compel the owners and occupants of houses to have scuttles in the roofs, and stairs and ladders leading to the same; to require the inhabitants of the said City to provide so many fire-buckets, in such manner and time as they shall prescribe, and to regulate the examination of them and the use of them at fires; to regulate the conduct and enforce the assistance of the inhabitants at fires and the preservation of property thereat; to make regulations for the suppression of fires and the pulling down or demolishing of adjacent houses; to purchase fire-engines, and establish

To prevent fir-
ing of guns,
&c.

To make By-
laws for safety
of inhabitants
against fire,
&c.

and

of confinement is provided by the City Council, and the Sheriff of the said District and his Gaoler shall be bound to receive and safely keep until duly discharged, all persons committed thereto by any competent power or authority of the said City.

City Council
may acquire,
&c., land, &c.,
necessary for
opening
streets, &c.

LIII. And be it enacted, That the said City Council shall have full power and authority, notwithstanding any law to the contrary, to purchase and acquire, or to take and enter into after paying, tendering or depositing the value thereof, to be ascertained as hereinafter provided, such land, ground, or real property of any description within the said City, as may by them be deemed necessary for opening, lengthening, straightening, or enlarging any street, square, market-place or other public thoroughfare, or as a site for any public building to be erected by the City Council, and to pay to or for the use of the proprietor or proprietors of such ground or real property, and out of the funds of the said City such sum of money as may be agreed upon as the value of such ground or property, by the party proprietor thereof and the said Council respectively, or ascertained in the manner hereinafter mentioned in case they shall not so agree upon the same.

City Council
may by a By-
law stop up any
public high-
way, &c.
Proviso :
Notice to be
given.

LIV. And be it enacted, That it shall and may be lawful for the City Council of the said City in Council assembled, by a Legislative Act or By-law made according to the provisions of this Act to stop up, alter or divert any public highway, street or lane, or to lay out any new street or highway, or to extend any street already laid out: Provided always, that before any such Act or By-Law shall be passed, it shall be the duty of the said Council, by resolution, to direct a notice of their intention to stop, alter, or divert any such public highway, street or lane, or of their intention to lay out any new street, or to extend any street already laid out, to be given and to be published at least one calendar month in not more than three, nor less than two newspapers of the said City; and also to hear in person or by Council or Attorney any person through whose land such highway, street or lane, or proposed highway, street or lane shall run, if he claims so to be heard before them at any time before the final passing of any such Act or By-law.

Proceedings
to be adopted
when City
Council shall
cause any
street, &c., to
go through
property of
any party.

LV. And be it enacted, That upon the passing of any Act or By-law of the said Council for the purpose of authorizing the opening of any street or other public thoroughfare, or of changing or diverting any street or public thoroughfare, or of extending the same so as to cause the same or any part thereof to go through or be placed upon the land or other real property of any person or persons, it shall and may be lawful for the person or persons who shall own such property, to institute a special action on the case at Law in Her Majesty's Court of Queen's Bench for Upper Canada, against the said City of Kingston, to recover compensation; and such action shall be sustainable whether any entry shall be made under such Act or By-law or not, or whether any use shall be made of such property under such Act or By-law or not, and if no such entry or use other than an entry for the purpose of survey shall be proved at the trial of any such action, the Judge who shall try the same shall certify the want of such proof upon the Record, and in such case it shall and may be lawful for the said Council at any time after such trial, and until three calendar months after the rendering judgment upon such verdict, to repeal such By-law, and to tender and pay to the Plaintiff in such action, or to the Plaintiff's Attorney, the taxed costs of the said Plaintiff in such action, and from and after such tender or payment the City of Kingston shall be discharged from the damages which shall be assessed in such action; and the land or other real property

property which shall be proposed to be taken by any such Act or By-law shall be and remain as if no such Act or By-law had been passed, and no entry or other use of such land or real property for the purposes of such Act or By-law shall be lawful after the assessment of such damages by the Jury until the amount of the damages assessed, and the costs of the Plaintiff in such action shall have been levied by the Sheriff, or paid, or discharged, or lawfully tendered to the Plaintiff or the Attorney of the Plaintiff in such action.

LVI. And be it enacted, That if a tender shall be pleaded, and if upon the trial of any such action it shall be proven to the satisfaction of the Jury, that a lawful tender shall have been made to the Plaintiff or to the Plaintiff's Attorney of a compensation, or sum equal to or greater than the amount of the damages assessed by such Jury, the said Jury shall find such tender by their verdict, and in case of such finding, the costs of the Defendant in such action incurred after such tender shall be borne by the Plaintiff, and the Plaintiff in such case shall receive no costs for any proceedings subsequent to such tender.

If sufficient tender be pleaded, Jury to find such tender by their verdict, and subsequent costs of Defendant to be borne by Plaintiff.

LVII. And be it enacted, That the Jury in estimating the damages or compensation in any such action, shall take into consideration any benefit or advantage which shall or may be derived from the opening, or diverting, or extending any such street or other public thoroughfare, and deduct the same from the damages or compensation, and in case the said benefit to be derived from the said opening, diverting, or extending such street or public thoroughfare shall be greater than the damages which shall be found to arise from the taking of such land or other real property, the verdict shall be for the Defendant: Provided always, that it shall not be competent for the said Council to pass any Act or By-law for stopping up any original allowance for road within the said City.

Jury in estimating damages to take into consideration benefit which may be derived from opening, &c., any such street.

LVIII. And be it enacted, That in lieu of the payment of any part of the rates or assessments heretofore payable to the general funds of the Midland District, the Treasurer of the said City shall, some time in the month of January in each and every year, out of the monies in his hands of the said City, pay to the Treasurer of the Midland District, for the general uses of the said District, the yearly sum of three hundred pounds, the first payment thereof to begin and be made in the month of January next ensuing the passing of this Act, and in default of such yearly payment of the sum of three hundred pounds as aforesaid, it shall and may be lawful for the Municipal Council of the Midland District, at its next sitting after the said month of January in each and every year, to levy by a By-law or By-laws to be passed for that purpose, a rate or tax upon the real and personal property in said City, a sum sufficient to amount to the said sum of three hundred pounds, over and above all necessary expenses attendant upon the levying and collecting of the rate or tax aforesaid: Provided always, that nothing in this Act shall be construed to prevent or excuse the said City from paying to the general funds of the Midland District, all such sum and sums of money as are or hereafter may be collected within the said City for or on account of the assessment already imposed by the general assessment law of this Province, due and payable by the inhabitants of the said City for the year eighteen hundred and forty-six, together with all such other sum or sums which may be due and owing by the said City, to the said District on the assessment for the years eighteen hundred and forty-two, eighteen hundred and forty-three, eighteen hundred and forty-four and eighteen hundred and forty-five, and also the assessment which has been or may be hereafter levied by the Municipal Council of the said District for the present year.

City Treasurer to pay annual sum of £300 into hands of Treasurer of Midland district.

Proviso.

Within five years, Corporation to build a Gaol in and for the City.

LIX. And be it enacted, That it shall be the duty of the City Council, and they are hereby required within five years after the passing of this Act, to build or cause to be built at the expense of the said City, on some convenient site to be by them procured for that purpose, within the said City, a good, sufficient and secure Gaol and House of Correction, for the confinement and imprisonment of all offenders, who shall at any time after the completion of such Gaol and House of Correction, be committed or adjudged to be imprisoned under any order or warrant of the Mayor, any Alderman, or the Police Magistrate of the said City, and from and immediately after the completion of such Gaol and House of Correction no person adjudged to be imprisoned as aforesaid shall be committed to the Gaol of the Midland District, except in cases of parties charged with offences which from their nature require to be tried before a Superior Court: Provided always, that so soon as such Gaol and House of Correction shall be built and finished as aforesaid, the payment of the said sum of three hundred pounds to the Treasurer of the Midland District shall cease and determine.

Proviso.

And may borrow a sum not exceeding £5,000 for that purpose.

LX. And be it enacted, That the better to enable the said City Council to build such Gaol and House of Correction, it shall and may be lawful for them to borrow for a term not exceeding twelve years, a sufficient sum of money for that purpose not exceeding five thousand pounds, from any person or persons or Company willing to advance the same, at a rate of interest not exceeding that fixed by law.

Certain rates and assessments to be levied for purposes of this Act.

LXI. And be it enacted, That for carrying the several purposes of this Act into execution, and for the securing, raising, and paying any monies which shall or may be borrowed under the authority thereof, and the interest of such monies, there shall be made, assessed, and levied under the authority of the City Council at yearly periods, not later than the first day of April in each year, a certain rate and assessment upon all and every person or persons who shall inhabit, hold, use or occupy any house, shop, warehouse, manufactory, building, or piece or parcel of land being a separate tenement, situate, lying and being within the said City, according to the yearly value thereof respectively, to be ascertained in manner hereinafter mentioned; and the time for which the first yearly rate or assessment under this Act shall be held to begin, shall be the first day of January, one thousand eight hundred and forty-seven, and shall end on the last day of that year, and the Assessor or Assessors of the said City in addition to the duties devolving upon them by any Act of the Parliament of this Province, shall make a fair return of the Assessment Roll of their respective Wards to the City Clerk on or before the first day of August in each year, who shall furnish to the Treasurer a true copy duly certified.

The annual value of certain property to be settled according to the real rack-rent, &c.

LXII. And be it enacted, That except as respects vacant grounds or other property hereinafter specially mentioned and provided for, the annual value of all such houses, shops, warehouses, manufactories, buildings, gardens, grounds, lands, tenements, and parts and portions thereof, being separate tenements as aforesaid, so to be rated and assessed as aforesaid, shall be settled according to the real rack-rent or full yearly value, which said rent or yearly value shall be ascertained by the said Assessor or Assessors once in each year: Provided always, that the said Assessor or Assessors shall in every instance, whenever they can truly ascertain the same, assess the said yearly value at the annual rent actually and *bonâ fide* charged or paid for such premises, and no more.

Proviso.

LXIII. And be it enacted, That the rate or rates aforesaid shall also be raised, assessed and levied upon the owners or possessors of the following chattel property, that is to say: Stallions, (kept for covering mares) horses and horned cattle, as hereinafter mentioned, coaches, phætons, curricles, gigs, wagons, sleighs, and other carriages kept for pleasure only, or for hire, according to the yearly value thereof, ascertained as hereinafter mentioned: Provided always, that nothing in this Act contained shall extend or be construed to extend to any churches, chapels, places of public Divine worship, school houses (when not used as dwellings) or burying grounds.

Rates to be levied on certain chattel property.

Proviso.

LXIV. And be it enacted, That every lot and parcel of ground whereon any house or other building, or houses or buildings to be valued as aforesaid are situate and being held therewith as the same tenement when such lot of ground is not above half an acre in extent, and to the amount of half an acre thereof, shall be assessed and valued with the house or building, houses or buildings thereon; and the overplus, if any, over half an acre, shall be valued as a separate tenement and vacant ground.

Lots of land to be valued with houses thereon in certain cases.

LXV. And be it enacted, That the possessors or owners of all cultivated, vacant or unoccupied ground, farms, gardens, and other lands not valued with any house or building as above mentioned, situate or partly situate within the said City, and also the said horses, cattle and carriages heretofore mentioned shall not be rated in respect thereof as hereinbefore mentioned, but the same shall be valued according to certain fixed rates, that is to say, lots or pieces of ground being separate tenements, as follows: Under half an acre, five pounds; half an acre and under an acre, ten pounds; an acre and under two acres, twenty pounds; and every lot or piece as aforesaid of two acres or upwards, twenty pounds for the first acre, ten pounds for the second acre, five pounds for the third acre, and one pound ten shillings for every subsequent acre; every stallion kept for covering mares for hire or gain at forty pounds of yearly value; every other horse, mare or gelding, three pounds; every head of cows and other horned cattle, one pound. On each of the following vehicles kept for pleasure only as follows: every close four-wheeled carriage, twenty-five pounds of yearly value; every phæton or other open four-wheeled carriage, fifteen pounds; every pleasure wagon or other carriage, buggy or gig, twelve pounds ten shillings. On each of the following vehicles kept for conveying passengers for hire or gain only: every four-wheeled carriage, twelve pounds; every two-wheeled carriage, eight pounds; for every two horse sleigh kept for pleasure only, at fifteen pounds yearly value, and every one horse sleigh kept for pleasure only, at ten pounds of yearly value; for every two horse sleigh kept for conveying passengers for hire or gain only, ten pounds of yearly value.

Assessments to be levied on cultivated ground, farms, &c., horses, cattle, and carriages, &c.

The Rates at which such property shall be valued.

LXVI. And be it enacted, That it shall be the duty of the Assessors of the said City to make such valuation as aforesaid when required by the City Council, and to complete the same on or before the first day of July in each year; and also to leave at the residence of every person so rated, whenever residing in the said City, a notice of the yearly rent or value of the property in respect whereof he, she or they shall be so rated; and in case any person shall think himself or herself over-rated in his or her assessment, it shall and may be lawful for such person at any time before the tenth day of August to give notice in writing to the City Clerk of the overcharge complained of, and the same shall be examined into and tried by a Court of five members of the said Council, to be appointed by the Council for the purpose by ballot, (of whom three shall be a *quorum*) who shall meet at such times and places as the Council may direct, reasonable

Assessors to make valuation when required by City Council.

Appeal to parties deeming themselves over-charged.

notice

Proviso.

notice thereof being given to the party complaining and to the Assessor making the rate; and the Court, after hearing the complaining party and his or her witnesses on oath, shall finally decide and determine upon such complaint, and affirm or amend the return of the Assessor accordingly: Provided always, that if the said complaining party shall neglect to appear at such meeting of the said Court, he or she having had reasonable notice thereof as aforesaid, the said Court shall proceed to make their final decision without hearing such party; and in case it shall appear to any two or more members of the said Court that the rent or yearly value has been in any case returned by the Assessor at too low a value, they shall cause the said Clerk to give to the person or persons so rated as aforesaid, and to the Assessor who shall have made such rate, notice of the time of meeting of the Court aforesaid, at which the same matter shall be heard, and the same shall be finally determined by the said Court in like manner as aforesaid, after hearing the said parties and witnesses on oath, or in default of their appearance as aforesaid: Provided always, that the said Court shall have power to adjourn from time to time as they shall see fit.

Proviso.

Mayor or any of the Aldermen may issue summons for witnesses.

LXVII. And be it enacted, That the Mayor or any one of the Aldermen of the said City shall have full power and authority (if required) to issue a summons for each witness whose evidence may be desired by the said Court, and if any person shall neglect or refuse to obey such summons, upon being tendered a reasonable remuneration for his services, not exceeding two shillings and six pence per day, he shall be liable to such fine, and in default of payment such imprisonment, as such Mayor or Aldermen shall deem proper, but not to exceed that which is authorized by this Act to be imposed for violating the By-laws of the said City Council.

Court may hear on memorial cases of persons assessed on houses vacant for more than four months.

LXVIII. And be it enacted, That it shall be lawful for the said Court, constituted as aforesaid, to hear on Memorial or Petition the cases of such persons as during that year have been assessed for any house or part of a house which has been vacant for more than four calendar months, and also the cases of such persons who, from sickness or extreme poverty, shall be unable to pay any rate by this Act imposed, and on hearing such case or cases it shall and may be lawful for the said Court to compound for or remit the whole or any part of such rate or rates.

Penalty on persons granting receipt for a less sum than rent paid for premises referred to therein.

LXIX. And be it enacted, That every landlord, proprietor, factor or agent, who shall wilfully grant a certificate or receipt which contains a less sum than the rent really paid or payable for the premises therein mentioned or referred to, and every tenant who shall present to the Assessor aforesaid, or otherwise utter or publish such a certificate or receipt, in order to procure a lessening or abatement of such rate or assessment, shall be liable to such fine, and in default of payment, to such imprisonment, as may be imposed by any By-law of the City Council to that effect.

Penalty on persons refusing to pay assessments.

LXX. And be it enacted, That if any person or persons rated or assessed as is in manner herein directed shall refuse or neglect to pay the rates or assessments charged upon him, her or them, for the space of fourteen days next after such rates shall be due and demanded by the Treasurer of the City, it shall and may be lawful for the said Treasurer to apply to the Mayor, or, in his absence or illness, to the Senior Alderman, for a warrant to the High Bailiff or any Constable of the said City to enter into the house or houses, other dwellings or premises of such person or persons, and to seize and take possession of his, her or their goods and effects, (whether in the Ward in which the

the assessed property is situated or elsewhere in the said City,) which warrant the said Mayor or Alderman is hereby authorized to grant upon a certificate signed by the Treasurer, and an affidavit sworn by the Constable making the demand, of such rate having been made, and of such person or persons being in arrear to the amount stated in such certificate, and if such rate or assessment shall not be paid within five days next after such seizure, the City Council is hereby authorized to sell by public auction, at such place as may be proper, such part of the said goods and effects as shall be sufficient to pay the said rates and assessments, with the costs and charges attending such seizure and sale, returning the overplus, if any there be, to the owner or owners: Provided always, that the costs and charges of any such seizure and sale shall not exceed those authorized by a certain Act of the Parliament of Upper Canada, passed in the first year of Her present Majesty's Reign, intituled, *An Act to regulate the costs of levying Distresses for Small Rents and Penalties*.

Proviso.

Act of U. C.

Vict. 1. c. 16.

LXXI. And be it enacted, That all proprietors, lessees and others, who shall let for rent premises within the said City for a space less than one year, shall themselves, as well as the occupiers of such premises, be liable and responsible for the rates and assessments aforesaid, and such assessments and rates shall and may be recovered from the proprietors, lessees and others, or from the occupiers, as the City Treasurer shall judge convenient.

Proprietors, &c., letting premises for less than one year, to be liable as well as occupiers, for rates, &c.

LXXII. And be it enacted, That every tenant for a term of years, or of one year, or of any shorter period commencing after the passing of this Act, who shall pay any rates, levies or assessments under the authority of this Act, shall, when such rate or assessment shall be paid and discharged, be at liberty to deduct the amount of such rate or assessment out of the rent due or to fall due next after the payment of such rate or assessment, excepting always when there shall be any covenant, stipulation or agreement between the landlord and the tenant for the payment of rates or taxes by the tenant, or for the payment of the rent by such tenant without abatement for or on account of such rates or taxes.

Tenants in certain cases paying rates, &c., to deduct amount of rates out of rent due next after payment of rate, &c.

LXXIII. And be it enacted, That in all cases where the person or persons who shall be rated in respect of any vacant ground or other real property within the said City, shall not reside therein, and the rates and assessments payable in respect to such vacant ground or other property shall remain unpaid, the rates or assessments payable in respect of such property shall remain charged against the same, and shall be paid by any future occupier of the same, or by any proprietor thereof who shall reside within the said City at any time after the said rates and assessments shall be due and in arrear, together with interest on the sum and sums so in arrear, from the time at which they shall respectively become payable, after the rate of six per centum per annum, and the said sum and sums so in arrear, with interest, shall be recovered in like manner as is hereinbefore provided for the recovery of other rates and assessments.

In cases where persons rated in respect of any property shall not reside thereon, rates to be paid by future occupier, &c.

LXXIV. And be it enacted, That each male inhabitant of the said City of the age of twenty-one years and upwards, and not above the age of sixty years, not otherwise rated under the authority of this Act, and who by the present laws would be liable to perform Statute Labour, shall be rated and assessed in the sum of ten shillings yearly, which said sum, with a list of persons liable to pay it, shall be added to the City Assessment List by the Assessor, and collected by the Treasurer for the general uses of the

Male inhabitants between 21 and 60 not otherwise rated to be assessed in a certain sum annually.

the said City, in like manner as other rates are levied and raised under the authority of this Act.

Rules, &c., of
Town of
Kingston to
remain in force
until repealed
by City Coun-
cil.

LXXV. And be it enacted, That all and every the Rules, Orders, Regulations, and Acts of Authority for, touching or concerning the affairs of the Town of Kingston, which may be in force at the time of the passing of this Act, shall continue, be and remain in full force and virtue until the same shall be rescinded, repealed or altered by the City Council of the City of Kingston, or other competent legal authority, and all Officers of the Town of Kingston, appointed by the Mayor and Common Council of the said Town, shall continue to act in the same capacity as heretofore, and with the same remuneration for their services, until removed by the City Council, or re-appointed under the provisions of this Act.

Present Mayor
and Aldermen
to remain in
office until
City Council
shall be consti-
tuted under
this Act.

LXXVI. And be it enacted, That until the first City Council of the City of Kingston shall be constituted under the provisions of this Act, the Mayor, Aldermen and Common Councilmen of the Town of Kingston, shall remain in office, and when the said City Council shall be constituted, they shall go out of office, and their whole duties and powers shall cease, but nothing in this Act shall prevent any member of the Common Council of the said Town from being a candidate at the first election for Aldermen and Councillors for the City of Kingston.

Present Com-
mon Council to
take means for
holding first
election of
Aldermen, &c.
for the City of
Kingston.

LXXVII. And be it enacted, That the Common Council of the Town of Kingston shall, and they are hereby authorized and required to take the necessary means by preparing and revising the Voters' Lists and otherwise, for holding the first election of Aldermen and Councillors for the City of Kingston under this Act, and according to the spirit, intention and meaning thereof, which said election, the qualification and registry of persons voting thereat, the manner and time of holding the same, and all things therein concerning, shall be held, governed and done by and in accordance with the provisions of this Act, relative to the annual Ward Elections, as near as may be, and the said first election shall be held on the second Tuesday in the month next after the month in which this Act is passed; and for the purpose of making out the necessary Voters' Lists for the said first election, the Assessment Lists for the year one thousand eight hundred and forty-five shall be used, and all persons qualified under this Act, being entered on the said lists, shall be voters in the various Wards respectively, at the said first election, and such first election so held, and all the proceedings growing thereout necessary to constitute the said City Council, and to give effect to its powers and proceedings, shall be as valid to all intents and purposes as if it were held on the second Tuesday in January; any thing herein to the contrary notwithstanding.

Certain magis-
trates only
may vote on
applications
for licenses
within the
City.

LXXVIII. And be it enacted, That from and after the passing of this Act, at any adjourned or other General Sessions held in the Midland District, for the purpose of receiving applications and granting Certificates to Innkeepers for License, only those Magistrates who may be resident inhabitants of the said City shall vote on any application for a License to keep an Inn situate within the said City.

Certain words
explained.

LXXIX. And be it enacted, That whenever the word "Oath" is used in this Act, it shall be held to comprehend an affirmation, if legally made, and the words "Senior Alderman" to mean that Alderman of the five longest in office, who is rated for the largest amount on the last Assessment List, and the word "Person" or "Persons" shall

shall be taken to comprehend a body politic or corporate, as well as an individual ; and every word importing the singular number shall, when necessary, be deemed to extend to several persons or things, and every word importing the masculine gender shall, when necessary, extend to a female as well as a male.

LXXX. And for the protection of persons acting in the execution of this Act, Be it enacted, That all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the Midland District, and shall be commenced within six calendar months after the fact was committed, and not afterwards or otherwise ; and notice in writing of such action, and of the cause thereof, shall be given to the City Clerk or his substitute two calendar months at least before the commencement of the action ; and no Plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if, after action brought, a sufficient sum of money shall have been paid into Court, with costs, by or on behalf of the Defendant.

Limitation of Actions.

Amends may be tendered.

LXXXI. And be it enacted, That all the property, real and personal, in the possession of or belonging to the Commonalty or Common Council of the Town of Kingston shall vest in and belong to the City Council of the City of Kingston, and their successors ; and all sums of money which are due or are to be raised under the authority of the above cited Act incorporating the Town of Kingston, or which may be raised under the authority of this Act, shall be paid and applied by the said City Council.

Property of the Town of Kingston to vest in the City of Kingston.

LXXXII. And be it enacted, That all the monies in the possession of the Common Council of the Town of Kingston, or which are due or are to be raised under the authority of the Act incorporating the said Town, or which may be raised under the authority of this Act, shall be charged and chargeable with the debts which have been legally contracted by the said Common Council, and remain due and unpaid, and with the debts that may be contracted by the City Council of the City of Kingston ; but nothing in this Act shall prevent the said City Council from renewing any loans which have been heretofore made by the Common Council of the Town of Kingston.

Monies belonging to the Town to be chargeable with debts of the Town or of the City loans.

LXXXIII. And be it enacted, That whenever in any Act of Parliament, Proclamation, Letters Patent, Record, Writ, or other legal proceeding, Deed, Will, Instrument, or writing of any kind or description, the name of the *Town of Kingston* or *Kingston* is or shall be used with intention to apply it to the place heretofore called the Town of Kingston as mentioned in this Act, it shall, according to the locality, be taken to have been meant and intended, and shall, to all intents and purposes whatever, apply to the said City of Kingston, and shall be so understood and applied by all Courts, Judges and Justices, and by all persons concerned in any public act or duty.

Words "Town of Kingston" in any Act, &c. to apply to the City of Kingston.

LXXXIV. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to or affect, or be construed to affect, any houses, lands, goods, chattels, or property of any kind, belonging to Her Majesty, Her Heirs or Successors, or vested in or held by any public body, officer, person or party in trust, for the uses or service of Her Majesty, Her Heirs or Successors, whether held in fee simple or for any less estate during the continuance of such estate : Provided always, that this clause shall not be held to exempt any person aforesaid not in the Naval or Military service of Her Majesty, in actual possession of any such real property under lease, from being assessed therefor under this Act.

This Act not to affect the property of the Crown.

Proviso as to property leased.

Public Act.

LXXXV. And be it enacted, That this Act shall be taken and held to be a Public Act, and shall be judicially taken notice of by all Judges, Justices, and others, without being specially pleaded.

FORM OF TREASURER'S CERTIFICATE FOR PROCURING A DISTRESS WARRANT.

I, _____ City Treasurer, of the City of Kingston, do hereby certify that the sum of _____ rated against _____ an inhabitant of the said City, in respect of rateable property in _____ Ward, (*or*, not assessed in respect of rateable property in the said City,) is now in arrear and unpaid.

City Treasurer.

FORM OF ATTESTATION.

I, _____ one of the Constables of the City of Kingston, do swear that I did, on the _____ day of _____ duly demand the above named taxes from the above named _____ by delivering a notice of such demand, according to law, at the place of abode of the said _____ (*or*, by delivering a notice of such demand to him the said _____.)

Sworn before me, at the City of Kingston, } (*Signed.*)
this _____ day of _____ 18 ____ . }

FORM OF WARRANT OF DISTRESS.

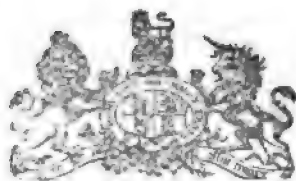
To _____ High Bailiff, (*or* one of the Constables of the City of Kingston,
as the case may be :)

You are hereby authorized and required to distrain the goods and chattels and effects of _____ which you shall find upon the premises of the said _____ in the City, for the sum of _____ rated against him (*or* her) and now in arrear and unpaid, and in default of payment of such rate (*or* rates) and the lawful costs and expenses of the said distress, to sell and dispose of the said distress (*or* distresses) according to law, for the recovery of the said rate (*or* rates,) together with the said costs and expenses according to law, and for your so doing this shall be your sufficient warrant.

Given under my hand and seal, at the City of Kingston aforesaid,
this _____ day of _____ in the year of
our Lord, one thousand eight hundred and _____

(Signed)

[L. S.]



A N N O N O N O
VICTORIÆ REGINÆ.

C A P. L X X V I.

An Act for the better preservation of certain Wild Fowl in the County of L'Islet.

[18th May, 1846.]

WHEREAS it is necessary to make stricter provision than is made by the Act hereinafter mentioned, for preventing the destruction of certain species of Wild Fowl within the County of L'Islet: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That no person or persons shall, from and after the passing of this Act, hunt, shoot, take, kill or destroy any Wild Swan, Wild Goose, Wild Duck, Teal, Pidgeon or Snipe, within any Parish or place in the County of L'Islet, in the Spring or in the Autumn of any year, until at least eight days after the arrival of the said Wild Fowl on the beaches, shoals and islands in the said County, shall have been publicly notified in the manner hereinafter mentioned, nor at any time or season whatever, between sunset and sunrise, or on any day of the week except Tuesday and Friday.

Preamble.

Certain Wild Fowl not to be killed within eight days after their arrival in L'Islet.

II. And be it enacted, That it shall be the duty of the Senior Justice of the Peace, or on his refusal or neglect, then of the Senior Officer of Militia in each Parish in the said County of L'Islet, on being certified by the oath of one credible witness (to whom such Justice of the Peace or Officer of Militia shall and may administer the requisite oath,) that the flocks of the said Wild Fowl or any of them have arrived on the beaches, shoals and islands in or opposite to such Parish, to cause notice to be given at the door of the Church of such Parish, immediately after Divine Service in the forenoon, of the arrival of the flocks of such Wild Fowl, and of the day upon and after which it will be lawful to hunt, shoot, kill or take the same, between sunrise and sunset on any Tuesday or Friday as aforesaid.

How such arrival shall be notified.

III. And be it enacted, That any person offending against this Act shall be liable to a penalty not exceeding five pounds, nor less than five shillings, to be recovered and applied in the same manner and under the same provisions as any penalty imposed

Penalty for contravening this Act.

by

Act 8 Vict. c.
46, cited.

by the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to prevent certain Wild Fowl and Snipes from being destroyed at improper seasons of the year, and to prevent the trapping of Grouse and Quail in this Province*, on persons offending against that Act.

Indians ex-
cepted.

IV. And be it enacted, That this Act shall not extend to the people usually called Indians.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXXVII.

An Act to authorize the Divisees and Trustees of the Will of the late Honorable Charles Jones, to convey a Town Lot therein mentioned to the President and Board of Police of Brockville, for the uses and purposes therein mentioned.

[18th May, 1846.]

WHEREAS certain Inhabitants of the Town of Brockville, in the District of Johnstown, have, by their Petition, represented that, by contributions made by them and others, a School House has been erected on Town Lot number eighty-six, as laid down on the Map or Town Plot of that part of the Town of Brockville which is on Lot number ten, and the east half of Lot number eleven, in the First Concession of the Township of Elizabethtown, as made or laid out for the Devisees and Trustees of the Estate of the late Honorable Charles Jones, and that the said late Honorable Charles Jones in his life-time became bound to the Honorable James Morris by his certain obligation, with a condition that the said late Honorable Charles Jones, his Heirs, Executors or Administrators, should, whenever requested by the said Honorable James Morris, his Heirs or Assigns, convey or cause to be conveyed, by a good Deed in fee simple, the said Town Lot for the purposes and uses of a School for the education of Children, in the said Town of Brockville, unto such persons as might be thereafter nominated and appointed, under the authority of an Act of Parliament of this Province, to take and receive the said Deed; And whereas it is desirable that the said Town Lot should be vested for the purposes aforesaid in the President and Board of Police of Brockville: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the said Devisees and Trustees of the Will of the said late Honorable Charles Jones, and they are hereby authorized whenever thereunto requested by the said Honorable James Morris, his Heirs or Assigns to convey the said Town Lot, or cause the same to be conveyed, by a good Deed, in fee simple, to the said President and Board of Police of Brockville, who are hereby authorized and empowered to accept and take a conveyance of the same from the said Devisees and Trustees of the Will of the said late Honorable Charles Jones, and to hold the same in trust, to and for the purposes and uses of a School for the

Preamble.
Recital.

The said Devisees Trustees under the Will of Honorable C. Jones, may convey a certain Town lot in Brockville to the President and Board of Police of Brockville, who may take

and hold the same in trust, for the uses and purposes of a School.

If any other Corporation be substituted for the Board of Police in Brockville, the property shall be transferred to such new Corporation.

Such Town Lot and School to be under the control of the Trustees of the Johnstown District, and the School to be and be deemed the Johnstown District School.

Saving of rights of Her Majesty and others.

Public Act.

the Education of Children in the said Town of Brockville as aforesaid; any law, usage, or custom, to the contrary thereof in anywise, notwithstanding.

II. And be it enacted, That if at any time hereafter the said Corporation of the President and Board of Police of Brockville shall be dissolved, and be replaced by any other Corporation of a like nature, then and in that case the said Town Lot shall pass to and be held in trust by the said new Corporation for the purposes and uses aforesaid, unless otherwise expressly provided by the Act creating such new Corporation.

III. And be it enacted, That the said Town Lot, when and so soon as the same shall have been so conveyed as aforesaid, as well as any School House thereon erected or to be erected, and the School therein at any time held, shall be under the exclusive government, control, direction and management of the Trustees of the Public School in and for the said District of Johnstown, and the said School shall be and be deemed the Public School in and for the said District.

IV. And be it enacted, That nothing herein contained shall affect or be construed to affect, in any manner or way, the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, body politic, corporate or collegiate, such only excepted as are hereinbefore mentioned and provided for.

V. And be it enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, and other persons whatsoever, without being specially pleaded.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. LXXVIII.

An Act to divide the Municipalities of Hochelaga and of Three-Rivers, respectively, into distinct Municipalities, and further to provide for the support of Schools and the management of local affairs therein.

[9th June, 1846.]

WHEREAS the Municipal Council of Hochelaga, in the Parish of Montreal, have by their Petition addressed to the several branches of the Provincial Legislature, prayed for a division of the Municipality of Hochelaga into five distinct Municipalities, and for further provisions for the support of Schools and the management of local affairs therein, and the inhabitant Householdors of the Banlieu of the Town of Three-Rivers have also by their Petition to the Legislature prayed that the said Banlieu may form a Municipality distinct from the remainder of the Parish of Three-Rivers, and it is expedient to grant the prayer of the said Petitions: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the first day of July next, the Municipality of Hochelaga as now constituted, shall cease and determine, and that the extent of Territory now forming the same shall be and is hereby constituted, from the same period, into five distinct Municipalities, to be named and bounded as follows, viz: First, the Municipality of Hochelaga, bounded to the West by the limits of the City and their prolongation towards the lands of *La Visitation*; to the North by the lands of the *Côte de la Visitation*; to the East by the Parish of *Longue Pointe*; and to the South by the River Saint Lawrence. Second, the Municipality of *La Visitation*, bounded to the West from the northern limit of the City of Montreal, by the East line of the land of Benjamin Hall towards the ground of Madame Nolan; and thence along the West line of the ground of Madame Nolan, towards the Parish of *Saint Laurent* and the lands of *Saint Michel* in the Parish of *Sault-au-Récollet*; to the East by the Parish of *Longue Pointe*, and to the South by the Municipality of Hochelaga. Third, the Municipality of *Côte des Neiges*, bounded to the East by the Municipality of *La Visitation*; to the North by the Parish of *Saint Laurent*; to the West by the Parish of Lachine, as far as the front road of *Côte Saint Luc*; to the South by the front road of *Côte Saint Luc*, towards the *Chemin de Ligne* leading to *Côteau Saint Pierre*, thence going down the said road, and then crossing the land

Preamble.
Recital.

Municipality
of Hochelaga
to cease after
1 July 1846,
and the tract
now included
in it, to form
five Municipa-
lities.

Boundaries of
the new Muni-
cipalities.
Hochelaga.
La Visitation.

*Côte des
Neiges*.

St. Henry.

St. Peter.

land of Mr. Descarris three arpents in depth, in a straight line with the *trait quarté* along the several properties between *Côte Saint Antoine* and the Village of *Saint Henri* as far as the City of Montreal, and thence by the City of Montreal. Fourth, the Municipality of *Saint Henry*, bounded to the South by the Lachine Canal, as far as the By-road coming from *Côte Saint Paul*; to the West by the said By-road towards the main road to Lachine, and then by a prolonged line as far as the lands of *Côte Saint Antoine*; to the North by the lands of *Côte Saint Antoine* to the City of Montreal, following the limits of the Municipality of *Côte des Neiges*; to the East by the City of Montreal. Fifth, the Municipality of *Saint Peter*, bounded to the East by the City of Montreal, to the South by the River Saint Lawrence, including the Islands on the North side of the main channel; to the West by the Parish of Lachine, and to the North by the Municipality of *Côte des Neiges* and the Municipality of *Saint Henry*.

After 1 July 1846, the Municipality of Three-Rivers to be formed into two distinct Municipalities, one consisting of the Town and the other of the Banlieu.

By what laws the said Municipalities shall be governed, and by how many Councillors each shall be represented.

Against what Municipalities the debts of those hereby divided shall be chargeable. And how the debts due to the former Municipalities shall be divided.

Books, papers, &c., of former Municipalities to be delivered over to certain of the new ones, by whom copies, &c., shall be given to the others interested.

II. And be it enacted, That from and after the said first day of July next, the Municipality of Three-Rivers shall cease and determine, and that the extent of Territory now forming the same, shall thenceforward form two separate and distinct Municipalities, one of which shall consist of and comprise the Town or Borough of Three-Rivers and shall be and be called the Municipality of the Town of Three-Rivers, and the other of which shall consist of and comprise the remainder of the said extent of Territory and shall be and be called the Municipality of the Banlieu of Three-Rivers.

III. Provided always, and be it enacted, That each of the said new Municipalities shall in every respect be governed by and act according to the law or laws now in force or hereafter to be in force with regard to Municipalities in Lower-Canada, except in so far as it is otherwise provided by this Act; and provided also, that five Councillors instead of seven shall be elected or appointed for each of the said Municipalities, except that which will consist of the Town of Three-Rivers which shall be represented in the Council thereof by seven Councillors.

IV. And be it enacted, That the debts of the present Municipality of Hochelaga, existing at the dissolution thereof, shall be and are hereby declared to be jointly due and payable by each of the said new Municipalities formed out of the same, and the debts of the Municipality of the Parish of Three-Rivers shall be due and payable by the Municipality of the Town of Three-Rivers; and the assessments and other debts or sums of money due and payable at the said period to the said present Municipalities of Hochelaga, and of the Parish of Three-Rivers, shall become vested and be recovered respectively, for its own use according to law, by the new Municipality in which the property assessed is situated, or in which the said debts or monies have accrued or become payable, and it shall be the duty of the present Municipal Councils of Hochelaga and of the Parish of Three-Rivers, respectively, and the Officers thereof, within one month after the election of new Councillors, to prepare and make up their final account, and deliver the same, together with all books and papers in their hands, to the Mayor and Councillors of the Municipality of *Côte des Neiges* hereby created, and to the Mayor of the Municipality of the Town of Three-Rivers who shall keep the same of record for their uses and that of each of the said new Municipalities, and any certified copy or extract from the same, which the said Council of *Côte des Neiges* and of the said Municipality of the Town of Three-Rivers shall be bound to deliver and certify at all times when required by any Municipality or any person having a right or interest thereto shall be considered valid in each of the said new Municipalities, respectively; and

and the monies in the hands of the present Municipality of Hochelaga, at the time of its dissolution, and also all moveable property or the produce thereof shall be equally divided and paid to and between each of the five new Municipalities hereby formed out of the same, and the monies in the hands of the present Municipality of the Parish of Three-Rivers at the time of its dissolution, and also all moveable property or the produce thereof, as well as all real or immoveable property then belonging to the said last mentioned Municipality, shall belong to the Municipality of the Town of Three-Rivers: Provided that the said new Municipalities may avail themselves respectively of the assessment now made, in so far as they are concerned, or proceed to a new assessment within three months after the election of Councillors: Provided also, that nothing in this Act contained shall be considered to void or render invalid any thing legally done by the present Municipalities, and which may have its effect in a manner not repugnant to law, and to this Act in particular.

Monies and moveable property of the former Municipalities how to be divided.

Present assessments to be availed of.

Proviso: Prior proceedings not repugnant to this Act not to be invalidated by it.

V. And be it enacted, That the provisions now or hereafter in force with regard to the support and management of Schools shall apply separately in each of the new Municipalities constituted by this Act, from and after the said first day of July next: Provided always, that each body of School Commissioners in the said new Municipalities shall be governed and shall act and have power, according to any law or laws now or hereafter in force with regard to Schools except in so far as otherwise provided for by this Act: Provided also, that five School Commissioners only may be elected or named in each of the said Municipalities, except the Municipality of the Town of Three-Rivers in which six shall be elected.

In what manner the School law shall apply to the new Municipalities.

Proviso as to the number of School Commissioners.

VI. And be it enacted, That the debts of the present School Commissioners of the Municipalities of Hochelaga and of the Parish of Three-Rivers, existing on the said first day of July next, shall be, and are hereby declared to be jointly due and payable by each body of School Commissioners in each of the said new Municipalities formed out of the said present Municipalities, respectively, and the debts, School-rates or other sums of money due and payable at the said period to the present School Commissioners shall become vested, and be recovered, respectively, for its own use according to law by each body of School Commissioners in the Municipality in which the same have accrued or become payable; and it shall be the duty of the present School Commissioners in the present Municipalities of Hochelaga and of the Parish of Three-Rivers, and the Officers thereof, within one month after the election of new Commissioners, to prepare and make up their account, and deliver it to the School Commissioners for the Municipality of *Côte des Neiges* and for the Municipality of the Town of Three-Rivers, respectively, as well as all books and papers in their hands in the manner hereinbefore provided concerning Municipalities, and the same shall be kept of Record, and copies or extracts given also in the same manner, and such copies and extracts shall have like effect; and all monies, as also all moveable property or the produce thereof, then in the hands of the present Commissioners, shall also be divided equally between each body of School Commissioners: Provided, that it shall be lawful for each body of Commissioners to establish a new assessment for the maintenance of Schools, and for the building of School Houses, and also to establish and divide the territory in each Municipality into one or more School Districts, or to adopt the present division in so far as they are concerned: Provided also, that nothing shall prevent the present School Commissioners, before the expiration of their powers on the said first day of July next, to apportion and divide in an equitable manner, as they may find just and reasonable,

Debts of the School Commissioners of the present Municipalities how to be paid.

And monies due to them to whom to be payable.

Present Commissioners to render accounts.

What purposes copies of such accounts shall serve.

Proviso as to new assessment.

Proviso as to monies unappropriated in the hands of

between

Commissioners.

Proviso as to prior proceedings not repugnant to this Act.

Each body of School Commissioners to make correct census of population within their territory.

School Commissioners may establish in each Municipality an assessment for the support of Schools, not exceeding a certain amount.

And for the building of School Houses, and purchase of ground.

Proviso as to amount of assessments.

Municipal Council of each new Municipality constituted out of that of Hochelaga, may establish villages in their territory for the ends of law.

Their powers as to such villages.

between the different bodies of new Commissioners, for the future support of Schools or for the building of School Houses, any monies, or part thereof, remaining in their hands unappropriated, and the sums so apportioned shall remain in the hands of the Secretary and Treasurer, to be by him paid respectively to the Secretary and Treasurer of each body of School Commissioners, within ten days after his appointment : Provided nevertheless, that nothing in this Act contained shall be considered to void or render invalid any thing legally done by the present School Commissioners, and which may have its effect in a manner not repugnant to law, and to this Act in particular.

VII. And be it enacted, That each body of School Commissioners shall, within one month after their election or nomination, make a correct Census of the population within their territory, showing also the number of children of each sex of age to attend the Schools, and the said Census shall remain among their records, and a duplicate thereof shall be transmitted to the Superintendent of Schools, to help him in the apportionment of School monies.

VIII. And be it enacted, That the School Commissioners in each new Municipality shall have power to establish and recover an assessment for the support of Schools, not exceeding three times the amount of the Government allowance for such Municipality, and also to establish and recover a different amount of assessment in each, or any one or more School Districts, not exceeding three times the proportionate share of such District in the Government allowance, and in this case the amount received in each District assessed apart, deducting a proportionate share of the general expenses, shall be expended in that District only ; and in any Municipality where the assessment is at least double of the Government allowance for the maintenance of Schools, the School Commissioners may lawfully appropriate and set apart, for the payment of their Officers and their general expenses, any sum required not exceeding twenty per cent. on the whole amount of assessment ; and it shall be also lawful for the said School Commissioners respectively in each Municipality, and also in any one or more School Districts as aforesaid, to establish and recover an assessment for the building of School Houses, and the purchase of ground therefor, not exceeding two hundred pounds, currency, in the principal School District, and one hundred pounds, currency, in any other or others ; and such separate assessment by Districts shall be applied only in that District in which it was levied : Provided, that when a distinct assessment is made by Districts for the support of Schools, the said assessment shall in no case be less than the proportionate allowance of public monies for such Districts, respectively ; and that no assessment for the building of School Houses in any Municipality or District shall exceed forty shillings, currency, for each child therein of age to attend School.

IX. And be it enacted, That it shall be lawful for the Municipal Council in each of the five Municipalities constituted by this Act, out of the present Municipality of Hochelaga, to declare and establish the whole or any part of the territory thereof to be a village or villages for the ends now or hereafter to be provided by law for villages, notwithstanding there not being a given number of houses within a given extent, but no village shall be so established with less than thirty inhabited houses ; and the Municipal Council and their Officers shall have all the powers and duties granted and established by law in regard to such villages ; and the said Municipal Councils shall also, in addition to their general or special powers in such villages, or in any one or more of them as they shall direct, and under the penalties now established in case of infringement

of Municipal Regulations and Orders have power, first, to better regulate all houses of public entertainment, public shows and exhibitions, billiard and play-houses, and also to impose and levy, by way of assessment upon any such show, exhibition, billiard or play-house, a sum not exceeding seven pounds ten shillings, currency, in any one year ; second, to prevent and remove, or cause to be removed, any nuisance, unhealthy and dangerous manufacture or matter, from all public roads and places, and also from any property fronting on the same, and being at a distance of not more than one hundred feet therefrom : Provided that nothing herein contained shall be construed to prevent any village to obtain a separate Municipal Council in the manner and on the conditions by law provided, and in such case the Municipality of such village shall have the additional powers given in the present section of this Act.

They may make regulations for certain purposes.

Proviso : Act not to prevent any village from becoming a separate Municipality.

X. And be it enacted, That this Act shall be a Public Act, and judicially noticed as such by all Courts of Law, and others whom it may concern, without being specially pleaded.

Public Act

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Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. LXXIX.

An Act to amend the Act incorporating the Saint Lawrence and Atlantic Rail-road Company.

[9th June, 1846.]

WHEREAS it is expedient to make certain amendments in the Act hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That notwithstanding any thing in the thirty-eighth section, or in any other part of the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to incorporate the Saint Lawrence and Atlantic Rail-road Company*, the said Company may from time to time reduce the Tolls on the whole or on any particular portion of the said Rail-road, and may again raise the same, so as to accommodate them to the circumstances of the traffic, provided they do not exceed the rates allowed by the said section, but that the Tolls to be demanded and taken by the Company thereby incorporated, shall be at all times charged equally to all persons, and after the same rate, whether *per ton*, *per mile*, or otherwise, in respect of all passengers and of all goods or carriages, of the same description, and conveyed or propelled by a like carriage or engine, passing only over the same portion of the line of Railway under the same circumstances; and no reduction or advance in any such Tolls shall be made directly or indirectly, in favor of or against any particular Company, person or party, travelling upon or using the Rail-road, or so as collusively and unfairly to create a monopoly, either in the hands of the said Company, or of any other Company, person or party.

Preamble.

Tolls to be charged equally to all persons under the same circumstances.

II. And be it enacted, That notwithstanding any thing in the fiftieth section or in any other part of the said Act, it shall not be lawful for the said Company to cause any obstruction in, or to impede the free navigation of the River Saint Lawrence, or of the River Richelieu, or of any other River or Stream to or across which their Rail-road shall be carried; and if the said Rail-road shall be carried across any navigable river, the said Company shall leave such openings between the piers of their bridge or viaduct over the same, and shall construct such draw-bridge or swing-bridge over the channel of the river, and shall be subject to such regulations with regard to the opening of such draw-bridge

Company not to impede free navigation of River St Lawrence or of River Richelieu, &c.

Plans of certain works to be subject to approval of the Governor in Council.

draw-bridge or swing-bridge, for the passage of vessels and rafts, as the Governor in Council shall direct and make from time to time ; nor shall it be lawful for the said Company to construct any wharf, bridge, pier, or other work upon the public beach or bed of any navigable river or stream, or upon the land covered with the waters thereof, until they shall have submitted the plan of such work to the Governor of this Province in Council, nor until the same shall have been approved by him in Council as aforesaid.

No penalty greater than £10 to be imposed for contravention of any regulations made touching any draw-bridge, &c.

III. And be it enacted, That by any regulations to be made by the Governor in Council, touching any such draw-bridge or swing-bridge as aforesaid, penalties not exceeding ten pounds, in any case, may be imposed for the contravention thereof; and such penalties shall be recoverable from the said Company, or from any of their Officers or servants by whom the regulations shall have been contravened, in the manner provided with regard to other penalties by the forty-seventh section of the said Act ; and an appeal shall be allowed to any person deeming himself aggrieved by the infliction of any such penalty, according to the provisions of the forty-eighth section of the said Act ; and one moiety of every such penalty shall belong to Her Majesty for the public uses of the Province, and the other moiety to the prosecutor or person suing for the same.

Public Act and Interpretation Clause.

IV. And be it enacted, That this Act shall be deemed a Public Act, and judicially noticed accordingly ; and that the words " Governor in Council," whenever they occur herein, shall be understood to mean the Governor, Lieutenant-Governor, or person administering the Government of this Province, acting by and with the advice of the Executive Council thereof.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. LXXX.

An Act to revive and amend the Act of Upper Canada incorporating *The Cobourg Rail-road Company*, and for other purposes therein mentioned.

[9th June, 1846.]

WHEREAS by virtue of an Act of the Legislature of the late Province of Upper Canada, passed in the Fourth year of the Reign of His late Majesty, King William the Fourth, intituled, *An Act to incorporate certain persons under the style and title of The Cobourg Rail-road Company*, certain persons therein named were ordained, constituted and declared to be a body corporate and politic in fact, by and under the name and style of *The Cobourg Rail-road Company*; And whereas for the reasons set forth in the Petition of Henry Ruttan, and others hereinafter named, subscribers to the Stock of the said Cobourg Rail-road Company, and others, no steps were or have been taken towards the commencement of the said Rail-road, or the carrying out of the provisions of the above cited Act, and they have prayed that the said recited Act may be revived and amended by substituting a Plank-road in lieu of the said Rail-road; And whereas it is expedient that the said Act be revived and amended: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the style and title of the Joint Stock Company constituted and ordained by and under the authority of the said Act as *The Cobourg Rail-road Company*, be changed, and that the style and title of *The Cobourg and Rice Lake Plank-road and Ferry Company*, be substituted therefor, and that Henry Ruttan, Ebenezer Perry, D'Arcy Edward Boulton, William Weller, John Vance Boswell and Stewart McKechnie, with all such other persons as shall become Stockholders in the said Joint Stock Company or Capital Stock as hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic, in fact, by and under the name and style of *The Cobourg and Rice Lake Plank-road and Ferry Company*, and by that name they and their successors shall and may have continued succession, and by such name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all Courts and places whatsoever, in all manner of actions and complaints, matters and concerns whatsoever; and they and their successors may and shall have a common seal, and may change and alter the same at their will and

Preamble.

U. C.
4 Will. 4. c.
28, cited.

Corporate
name of Com-
pany changed.

New name.

Corporate pow-
ers granted.

Common Seal.

Holding property.

and pleasure; and also that they and their successors, by the same name of *The Cobourg and Rice Lake Plank-road and Ferry Company*, shall be, by law, capable of purchasing, having and holding to them and their successors, any estate, real or personal or mixed, to and for the use of the said Company, and of letting, conveying and otherwise departing therewith, for the benefit and on account of the said Company, from time to time as they shall deem necessary and convenient: Provided always, nevertheless, that the real estate to be held by the said Company, shall be only such as shall be required to be held by them for the purpose of making and using said Plank-road and Ferry, and for objects immediately connected therewith.

Proviso: Real estate to be held for certain purposes only.

All the provisions of the Act above cited repealed.

II. And be it enacted, That from and after the passing of this Act, all and several the clauses and provisions of the herein cited Act, be and are hereby repealed.

Company may make a Plank-road from Cobourg Harbour to the Rice Lake.

III. And be it enacted, That the said Company and their agents and servants shall have full power under this Act, to lay out, construct, make and finish a Plank-road, at their own proper cost and charges, on and over any part of the country lying between the Cobourg Harbour and the Rice Lake, at or near a certain place known as Gore's Landing, on the south shore of the said Rice Lake, and following the direction of the present travelled road, and using such portions of the same as to them may appear practicable and suited to the purposes of the said Company; any thing herein contained to the contrary thereof in any wise notwithstanding.

Company may construct wharves at Gore's Landing and certain other points on Rice Lake.

IV. And be it enacted, That the said Company and their agents and servants shall have full power under this Act to build, erect, construct and maintain a wharf or wharves at or near a place known as Gore's Landing, in the Township of Hamilton, on the south shore of the Rice Lake, and also a wharf or wharves at or near some point or points, place or places such as they shall deem fit and necessary in the Townships of Otonabee and Monaghan, respectively, or either of them, the said Townships, lying and being situated on the north shore of the said Rice Lake opposite to Gore's Landing as aforesaid, and to build, establish, keep up and maintain a sufficient Ferry-boat or boats to ply regularly on and upon the waters of the said Rice Lake between the said points or places as aforesaid, for the conveyance across the said Rice Lake of passengers, baggage, horses, mules, asses, oxen, cows, sheep, pigs, goats, poultry, goods, wares and merchandize, the said Ferry-boat or boats to be propelled by steam, horses, or otherwise, and to ply at and during such hours of the day or night as to them, the said Company, may seem fitting and proper for the furtherance of the traffic, and convenience of passengers and others travelling upon and using the aforesaid Plank-road.

And may have Ferry Boats across the Lake.

Company to cause survey to be made of places at which Ferry may be established.

V. And be it enacted, That in order the better to carry into effect the intention of this Act, and for the more certain establishment of a Ferry across the said Rice Lake as aforesaid, the aforesaid Company shall cause to be made a correct survey of the points or places respectively, at, from and between which the said Ferry shall or may be established under the authority of this Act, which survey or surveys, together with the title deeds of the lands therein described, shall be duly registered in the Office of the Registrar of the County wherein such lands shall or may be situate, and until such survey or surveys, title deed or deeds shall have been duly registered as aforesaid, the said Company shall not claim, enjoy or possess any exclusive right to such Ferry, any thing in this Act contained to the contrary notwithstanding.

On what conditions Ferry may be established.

VI. And be it enacted, That the limits of such right of Ferry across the said Rice Lake, shall extend on either side of the said Company's wharf or wharves respectively, along the shore or shores of the said Lake, for the space and distance of one mile and a half each way, and be otherwise subject to and under the protection of such Law or Laws relating to Ferries within that part of this Province commonly known as Upper Canada, as are now or may be hereafter in force therein for the better regulation of the same.

Limits of right of Ferry.

To be subject to the Laws of U. C. respecting Ferries.

VII. And be it enacted, That all such clauses and provisions as are hereinafter contained relative to the mode of procuring, purchasing or possessing lands or other property for the purposes of a Plank-road, shall be deemed equally to apply to all lands and other property necessary for the purposes of the said Ferry; anything herein contained to the contrary notwithstanding.

Clauses relating to procuring lands, &c., for Plank-road, to apply to property necessary for Ferry.

VIII. And be it enacted, That the said Company are hereby empowered to contract, compound and agree with the owners and occupiers of any lands upon which they may determine to construct the said Plank-road, either by purchase of so much of the said land and privileges as they shall require for the purposes of the said Company, or for the damages which he, she or they shall and may be entitled to receive of the said Company, in consequence of the said intended Plank-road being made and constructed in and upon his, her or their respective lands; and in case of any disagreement between the said Company and the owner or owners, occupier or occupiers as aforesaid, it shall and may be lawful from time to time for each owner and occupier so disagreeing with the said Company, either upon the value of the lands and tenements, or private privileges proposed to be purchased, or upon the amount of damages to be paid to them as aforesaid, to nominate and appoint one or more indifferent person or persons, and for the said Company to nominate an equal number of indifferent persons, who, together with one other person to be elected by ballot by the persons so named, shall be Arbitrators to award, determine, adjudge and order the respective sums of money, which the said Company, shall pay to the respective persons entitled to receive the same, the award of the majority of whom shall be final; and the said Arbitrators shall be and are hereby required to attend at some convenient place, in the vicinity of the said Plank-road, to be appointed by the said Company, after eight days' notice given for that purpose by the said Company, then and there to arbitrate and award, adjudge and determine such matters and things as shall be submitted to their consideration by the parties interested; and that each Arbitrator shall be sworn before some one of Her Majesty's Justices of the Peace in and for the said District of Newcastle, any one of whom may be required to attend the said meeting for that purpose, well and truly to assess the damages between the parties, according to the best of his judgment: Provided always, that any award under this Act shall be subject to be set aside, on application to the Court of Queen's Bench, in the same manner and on the same grounds as in ordinary cases of submission by the parties, in which case a reference may be again made to arbitration, as hereinbefore provided.

Company may contract with owners of lands through which the Plank-road may be made.

Arbitration to be had when the parties and the Company cannot agree.

Third Arbitrator.

Meetings of Arbitrators.

Arbitrators to be sworn.

Proviso: Awards may be set aside by Court of Q. B., on due cause shewn.

IX. And be it enacted, That if after eight days' notice in writing given to the party so disagreeing as to the value aforesaid, such party shall not nominate or appoint an Arbitrator or Arbitrators as aforesaid on his part, or if the land required by the said Company be the property of a minor or lunatic or person absent from this Province, then and in any such case the Judge of the District Court of the said District of Newcastle

Judge of the District Court to appoint on behalf of the party in case of the neglect or inability of

such party to
appoint.

Newcastle shall and may nominate and appoint one or more Arbitrator or Arbitrators on their behalf, with the same powers and authority as if appointed by the party or parties so refusing or neglecting to appoint an Arbitrator or Arbitrators in his or their behalf, or so being a minor or lunatic or absent from this Province, including the power to meet and ballot for the additional Arbitrator or umpire.

Sum of
money award-
ed for com-
pensation, to
be paid within
three months
after award is
made, on pain
of nullity.

X. And be it enacted, That whatever sum of money may be finally awarded to any person or persons for compensation for property required to be occupied, or for damages occasioned by the interference of the said Company with his or their property, rights or privileges, shall be paid within three months from the time of the same being awarded; and in case the said Company shall fail to pay the same within that period, their right to assume any such property, or commit any act in respect of which such sum of money was awarded, shall wholly cease; and it shall be lawful for the proprietor to resume his occupation of such property, and to possess fully his rights and privileges in respect thereof, free from any claim or interference from the said Company.

Company may
enter into
lands belong-
ing to Corpora-
tions and other
parties, for the
purposes of
survey.

And may
build works,
&c., necessary
for their road.

And may get
and place ma-
terials, &c.

And make fen-
ces, passages,
&c.

Doing as little
damage as pos-
sible, and mak-
ing satisfaction

XI. And be it enacted, That the said Company and their agents, servants and workmen are hereby authorized and empowered to enter into and upon the lands and grounds of or belonging to any other person or persons, bodies politic or corporate, between the Town of Cobourg aforesaid and the Rice Lake, and to survey and take levels of the same or any part thereof, and to set out and ascertain such parts thereof as they shall deem necessary and proper for making the said Plank-road, and all such matters and conveniences as they shall think proper and necessary for making, effecting, preserving, completing and using of the said intended Plank-road; and also to make, build, erect and set up in and upon the said route of the Plank-road aforesaid, or upon the land adjoining or near the same, all such works, ways, roads and conveniences as the said Company shall think convenient and necessary for the purposes of the said Plank-road; and also from time to time to alter, repair, amend, widen or enlarge the same, or any other of the conveniences above mentioned, as well for carrying or conveying of goods, commodities, timber and other things to and from the said Plank-road, as for the carrying and conveying all manner of materials necessary for making, erecting, furnishing, altering, repairing, amending, widening or enlarging the works of or belonging to the said Plank-road, and also to place, lay, work and manufacture the said materials on the ground near to the place or places where the said works, or any of them, are, or shall be intended to be made, erected, repaired or done, and to build and construct the several works and erections belonging thereto; and also to make, maintain, repair or alter any fences or passages through the said Plank-road, or which shall communicate therewith; and to construct, erect, and keep in repair any piers, arches, or other works, in and upon any creeks or brooks, for making, using, maintaining and repairing the said Plank-road; and also to construct, make and do all other matters and things which they shall think necessary and convenient for the making, effecting, preserving, improving, completing and using the said Plank-road, in pursuance and within the true meaning of this Act; they, the said Company, doing as little damage as may be, in the execution of the several powers to them hereby granted, and making satisfaction in manner herein mentioned, for all damages to be sustained by the owners or occupiers of such lands, tenements or hereditaments.

President and
Directors may
fix Tolls.

XII. And be it enacted, That it shall and may be lawful for the President and Directors of the said Company, from time to time to fix, regulate and receive the Tolls and

and charges to be received from all persons passing and repassing over the said Plank-road hereby authorized to be constructed, erected, built, made and used.

XIII. And be it enacted, That the said Plank-road, and all materials which shall be from time to time got or provided for constructing, building, maintaining or repairing the same, and the said Tolls as hereinbefore mentioned, shall be and the same are hereby vested in the said Company and their successors for ever.

Road, &c.,
vested in Com-
pany, &c.

XIV. And be it enacted, That the President and Directors of the said Company shall have full power to erect such number of Gates in or across the said Plank-road, and fix such Tolls as they may deem fit and expedient, (which Rates or Tolls may be altered from time to time as circumstances may require,) and to erect and maintain such Toll-houses and other erections as to them may seem necessary and convenient for the due performance of their business.

President and
Directors may
erect Toll-
gates across
the road.

XV. And be it enacted, That if any person or persons shall cut, break down or destroy in any other way any of the Gates or Toll-houses to be erected by virtue of this Act, every such person so offending, and being lawfully convicted, shall be deemed guilty of a misdemeanor, and be punished by fine and imprisonment; and if any person or persons shall remove any earth, stone or timber on the said road, to the damage of the same, or shall forcibly pass, or attempt to pass by force any of the Gates without having first paid the legal Toll at such Gate, such person or persons shall pay all damage by them committed, and shall forfeit and pay a fine not exceeding five pounds, nor less than one pound, currency, to be recovered before any Justice of the Peace for the District of Newcastle.

Penalty on
persons des-
troying Gates,
&c.

Or injuring
the Road or
forcibly pas-
sing without
paying Toll.

Penalty.

XVI. And be it enacted, That the fines and forfeitures authorized to be imposed by this Act shall and may be levied and collected by distress and sale of the offender's goods and chattels, under the authority of any warrant or warrants for that purpose, to be issued by any one of Her Majesty's Justices of the Peace for the District of Newcastle, who are hereby authorized and empowered to grant the same.

Fines, &c.,
how to be
levied.

XVII. And be it enacted, That the said President and Directors, if they think proper, may commute the Tolls with any person or persons, by taking of him, her or them, a certain sum, either monthly or annually in lieu of such Tolls; and that the said President and Directors shall affix in a conspicuous place at all such Toll-gates, a table of the Rates of Tolls to be exacted, and taken, to be plainly and legibly printed.

President and
Directors may
commute
Tolls.

Tables of
Tolls to be
posted up.

XVIII. And be it enacted, That if any person or persons shall, after proceeding on the said road with any of the carriages or animals liable to pay Toll, turn out of the same road into any other road, and shall enter the said road beyond any of the said Gate or Gates, without paying Toll, whereby such payment shall be evaded, such person or persons shall, for every such offence, forfeit and pay the sum of five shillings, which said sum shall be expended on the said road, or towards the discharging of any debts or other incumbrances thereon; and any one Justice of the Peace for the District of Newcastle, shall, on conviction of such offender, fine such person in the said penalty, and from his judgment there shall be no appeal.

Penalty on
persons turn-
ing out of road
and again en-
tering so as to
evade Tolls.

Penalty how
recoverable.

Penalty on persons permitting any one to pass through their lands to evade Toll.

XIX. And be it enacted, That if any person or persons, occupying or possessing any enclosed lands, near any Toll-houses or Toll-gates which shall be erected in pursuance of this Act, shall knowingly permit or suffer any person or persons to pass through such lands, or through any gate, passage or way thereon, with any carriage, horse, mare, gelding, or other animal liable to the payment of the Toll, whereby such payment shall be avoided, every person or persons so offending, and also the persons riding or driving the animal or animals or carriage, whereon such payment is avoided, being thereof convicted, shall, for every such offence, severally forfeit and pay any sum not exceeding five shillings, which shall be laid out in improving such road.

Exemptions from Toll.

XX. And be it enacted, That Her Majesty's Mail, and persons, animals and carriages, employed in the conveyance thereof, Her Majesty's Officers and Soldiers, being in proper Staff or Regimental or Military uniform, dress or undress, and their horses, (but not when passing in a hired or private vehicle,) and all carriages and horses belonging to Her Majesty, or employed in Her service when conveying persons in such service, or returning therefrom, and all Recruits marching by route, and all persons, animals and carriages attending funerals on any day in the week, or going to or returning from Divine Service on the Lord's Day, shall pass Toll-free through any Turnpike and Toll-gate to be erected under the authority of this Act.

Company may construct Plank-road on any part of the country lying between Cobourg and Rice Lake, as aforesaid.

XXI. And be it enacted, That the said Company, or their agents or servants, at any time after the passing of this Act, under and by virtue of its provisions shall and may construct, erect and build a Plank-road as aforesaid, on any part or portion of the country lying between the Town of Cobourg and Rice Lake aforesaid, at or near Gore's Landing, and also that the said Plank-road contemplated by this Act, shall not in any degree interfere with or encroach upon any fee simple, right or private easement, or privilege of any individual now holding and enjoying the same, or entitled thereto, without the permission first had and obtained, either by the consent of the owner thereof, or by virtue of reference authorized by this Act.

Property, &c., of Company to be managed by seven Directors to be elected yearly by the Stockholders.

XXII. And be it enacted, That the property, affairs and concerns of the said Company shall be managed and conducted by seven Directors, one of whom shall be chosen President, who shall hold their offices for one year, which said Directors shall be Stockholders to the amount of at least ten shares, and be elected on the first Monday in July, in each and every year, at the Town of Cobourg, at such time of the day as a majority of the Directors for the time being shall appoint, and public notice thereof shall be given in any newspaper or newspapers that may be published in the said Town of Cobourg, at least one month previous to holding the said election, and the said election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose, in their own proper persons or by proxy; and all elections for such Directors shall be by ballot, and the seven persons who shall have the greatest number of votes at any election, shall be Directors, and if it shall happen at any such election that two or more have an equal number of votes, in such a manner that a greater number of persons than seven shall, by a plurality of votes, appear to be chosen Directors, then the said Stockholders, hereinbefore authorized to hold such election, shall proceed to elect by ballot, until it is determined which of the said persons so having an equal number of votes, shall be Director or Directors, so as to complete the whole number of seven; and the said Directors so chosen, as soon as may be after the said election, shall proceed, in like manner, to elect by ballot, one of their number

Elections to be by ballot.

Case of equality of votes provided for.

Directors to elect President.

number to be President ; and if any vacancy or vacancies shall at any time happen among the Directors, by death, resignation, or removal from the Province, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen, by a person or persons to be nominated by a majority of the Directors.

Vacancies between the elections how filled.

XXIII. And be it enacted, That each Stockholder shall be entitled to the number of votes in proportion to the number of shares which he or she shall have in his or her own name, at least one month previous to the time of voting, according to the following rules, that is to say : one vote for each share not exceeding four; five votes for six shares ; six votes for eight shares ; seven votes for ten shares, and one vote for every five shares above ten.

Ratio of votes to Shares.

XXIV. And be it enacted, That in case it should at any time happen that an election of Directors should not be made on any day when, pursuant to this Act, it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any day to hold and make an election of Directors, in such manner as shall be regulated by the By-laws and Ordinances of the said Corporation.

Corporation not to be dissolved if election do not take place on day fixed by this Act.

XXV. And be it enacted, That the Directors for the time being, or a majority of them, shall have power to make and subscribe such Rules and Regulations as to them shall appear useful and proper, touching the management and disposition of the stock, property, estate and effects of the said Company, touching the duties of the Officers, Clerks and servants, and all such other matters and things as appertain to the business of the said Corporation, and also shall have power to appoint as many Officers, Clerks and servants, for the carrying on the said business, with such salaries and allowances as to them shall seem fit.

Directors to make By-laws, &c., appoint Officers, &c.

XXVI. And be it enacted, That on the second Monday in the month of July next, a meeting of the Stockholders shall be held in the Town of Cobourg, who, in the same manner as hereinbefore provided, shall proceed to elect seven persons to be Directors, who shall elect by ballot one of their number to be President, and shall continue in office until the first Monday in July after their election, and who, during such continuance, shall discharge the duties of Directors, in the same manner as if they had been elected at the annual election.

First meeting to be held at Cobourg on second Monday in July, 1846.

XXVII. And be it enacted, That the whole Capital Stock which the said Company may have or hold by virtue of this Act, shall be six thousand pounds, with power to increase the same to double that amount, if found necessary, for the construction of the said Road and Ferry, and that the shares of the Capital Stock shall be composed of shares of the value of twelve pounds ten shillings, currency, each, and may, after the first instalment thereon shall have been paid, be transferable by the respective persons subscribing and holding the same to any other person or persons, and such transfer shall be entered and registered in a book or books to be kept for that purpose by the said Company : Provided always, that nothing herein contained shall extend to authorize the said Company to carry on the business of banking.

Amount of Capital Stock of Company.

Value of each share.

They shall be transferable.

Proviso.

XXVIII. And be it enacted, That so soon as Directors have been appointed as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company,

Stockholders may be called upon to pay an

instalment so soon as Directors are appointed.

Remainder how payable.

Proviso: Road not to be commenced until first instalment is paid.

Company, by giving thirty days' notice thereof in any newspaper published in the said Newcastle District, for an instalment of ten per centum upon each share which they or any of them may respectively have subscribed for, and that the residue of the sums or shares of the Stockholders shall be payable by instalments in such time and in such proportions as a majority of the Stockholders, at a meeting expressly convened for that purpose, shall agree upon, so that no such instalments shall exceed ten per centum, nor become payable in less than thirty days after public notice in the newspaper or newspapers as aforesaid: Provided always, that the said Directors shall not commence the construction of the said Plank-road or Way until the first instalment shall be paid in.

Forfeiture of shares of Stockholders refusing to pay instalments.

Proviso.

Proviso.

XXIX. And be it enacted, That if any Stockholder or Stockholders as aforesaid, shall refuse or neglect to pay at the time required any instalment or instalments which shall be lawfully required by the Directors as due upon any share or shares, such Stockholder or Stockholders so refusing or neglecting shall forfeit such share or shares as aforesaid with any amount which shall have been previously paid thereon, and the said share or shares may be sold by the said Directors, and the sum arising therefrom together with the amount previously paid thereon, shall be accounted for and applied in like manner as other monies of the said Company: Provided always, that the purchaser or purchasers, shall pay to the said Company the amount of the instalment required over and above the purchase money of the share or shares so purchased by him, her or them as aforesaid, immediately after the sale and before they shall be entitled to the certificate of the transfer of such shares purchased as aforesaid: Provided always, that twenty days' notice of the sale of such forfeited shares shall be given in any newspaper or newspapers published in the Newcastle District, and that the instalments due may be received in redemption of any such forfeited share at any time before the day appointed for the sale thereof.

Directors to make annual dividends of profits: and submit statements of affairs.

XXX. And be it enacted, That it shall be the duty of the Directors to make annual dividends of so much of the profits of the said Company as to them or a majority of them shall seem advisable, and that once in each year an exact and particular statement shall be rendered of the state of their affairs, debts, credits, profits and losses, such statement to appear in the books and to be open to the perusal of any Stockholder at his or their reasonable request.

Limitation of actions.

XXXI. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next after the fact committed, and not afterwards, and the defendant or defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

The Company may in their discretion macadamize any portion of the road instead of planking it.

XXXII. And be it enacted, That for and notwithstanding any thing in this Act contained, it shall and may be lawful for the said Cobourg and Rice Lake Plank-road and Ferry Company in their discretion, to Macadamize all or any part of the said road which they are here authorized to construct, upon the terms, conditions and restrictions, and subject to the observance of the formalities hereinbefore prescribed, and that in the event of their doing so, the words "Plank-road," wherever they occur in this Act shall be construed to mean either a Macadamized road or a road partly Macadamized and partly planked, as the case may require.

XXXIII. Provided always, and be it enacted, that the said Company shall at all times when thereunto required by Her Majesty's Deputy Post Master General, the Commander of the Forces, or any person having the superintendence or command of any Police Force, convey Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all Artillery, Ammunition, Provision or other Stores for their use, and all Policemen, Constables, and others travelling on Her Majesty's service across the said Rice Lake in their ferry boats, on such terms and conditions and under such regulations as the said Company and the said Deputy Post Master General, the Commander of the Forces, or person in command of any Police Force respectively shall agree upon, or if they cannot agree, then on such terms and conditions and under such regulations as the Governor or person administering the Government shall in Council make; and provided also, that any further enactment which the Legislature of this Province may hereafter deem it expedient to make with regard to the carriage of the said Mail or Her Majesty's Forces and other persons or articles as aforesaid, or the rates to be paid for carrying the same, or other service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act; and nothing in this Act contained shall be construed to authorize the said Company to take or enter upon any land or real estate of any kind belonging to Her Majesty, Her Heirs or Successors, or vested in or held in trust by the Principal Officers of Her Majesty's Ordnance or any public body, person or party, in trust for the uses or service of Her Majesty, Her Heirs or Successors, whether such real estate be held in fee simple or for any less estate during the continuance of such estate, unless the entering upon or taking of such lands or real estate be authorized by the Governor in Council or by the Commander in Chief of Her Majesty's Forces in this Province.

Company to convey Her Majesty's Mail, Troops, Stores, Police, &c, at rates to be fixed by Governor in Council in case of non-agreement.

Legislature may make further provision in this behalf.

Company not to enter on Crown property without special license.

XXXIV. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way whatsoever the rights of Her Majesty, Her Heirs or Successors or of any person or persons, or of any bodies politic, corporate or collegiate such only excepted as are hereinbefore mentioned.

Saving of rights not expressly affected.

XXXV. And be it enacted, That this Act shall be taken to be a Public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace and other persons without being specially pleaded.

Public Act.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXXXI.

An Act to alter and amend the Charter of the Great Western Rail-road Company.

[9th June, 1846.]

WHEREAS by an Act passed by the Legislature of Upper Canada, in the fourth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to incorporate certain persons under the style and title of the London and Gore Rail-road Company*, several persons were incorporated under such style and title, for making and maintaining the said Rail-road, with power to raise a capital by subscription for that purpose; And whereas by another Act passed by the Legislature in the eighth year of the Reign of Her present Majesty, intituled, *An Act to revive certain provisions of the Act incorporating The Great Western Rail-road Company, and to enable them to carry on that work*, the corporate name of the said Company was changed to that of *The Great Western Rail-road Company*, and further powers were granted to them with reference to the said undertaking, and it was thereby enacted that the capital of the said Company might be equal to, but should not exceed one million, five hundred thousand pounds, currency, to be held in sixty thousand shares of twenty-five pounds, currency, each; And whereas five thousand only of the said sixty thousand shares authorized to be created as aforesaid have been subscribed for by persons resident in Canada, and the remaining fifty-five thousand of the said sixty thousand shares have been subscribed for by persons resident in Great Britain; And whereas it is expedient that the said recited Acts should be altered in the manner hereinafter mentioned for the purpose of affording a just and proper protection to the English Shareholders of the Company in respect of their shares therein: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the provisions of the said recited Acts so far as they are inconsistent with this Act and the provisions herein contained, shall be, and the same are hereby repealed.

Preamble.

Act of U. C.
4 Will. 4. c.
20, cited.

Act of Canada,
8 Vict. c.
86, cited.

The said Acts
in so far as
inconsistent
with this Act
repealed.

II. And be it enacted, That the persons who are for the time being to be considered the English Shareholders of the Company, and the shares in respect of which they are respectively to be considered such Shareholders, shall be distinguished in the manner

How English
Shareholders
shall be distinguished from

Canadian or
other Share-
holders.

manner hereinafter mentioned from the persons who are for the time being to be considered the Canadian or other Shareholders of the Company, and the shares in respect of which they are respectively to be considered such Shareholders.

Certain per-
sons to form
Corresponding
Committee in
London.

III. And be it enacted, That William James Chaplin, Charles Devaux, Henry John Enthoven, Abel Lewis Gower, George Hudson, Samuel Laing, John Masterman, John Moss, Thomas Smith, Matthew Uzielli, and Gregory Seale Walters, or such other persons not exceeding eleven in number as shall from time to time be appointed in such manner as shall be agreed upon by the English Shareholders, shall form and be a Corresponding Committee in London, and shall have and exercise such authority and control as is hereinafter mentioned in and over the management of the affairs of the Company for the protection of the interest of the English Shareholders.

Corresponding
Committee to
have an Office
and Secretary
in London.
Expenses al-
lowed.

IV. And be it enacted, That it shall be lawful for the Corresponding Committee to have an office in London, with a Secretary, and such establishment as shall be requisite for enabling them to discharge the functions of their office ; and all the expenses of the said office and Secretary, and of such establishment as aforesaid, and all expenses which shall be incurred by the Corresponding Committee in any wise relating to the affairs of the Company shall be paid out to the general funds of the Company, but such expenses shall be regulated by all reasonable economy.

A certain
yearly sum to
be set apart as
a remuneration
to members of
Corresponding
Committee.

V. And be it enacted, That such a yearly sum as a General Meeting of the Company shall from time to time direct, but not less than five hundred pounds, nor more than one thousand five hundred pounds, in any one year, shall be set apart and paid out of the general funds of the Company as a remuneration to the members of the Corresponding Committee for their time and labour in attending to the affairs of the Company, and shall be divided amongst such members in such manner as they shall agree upon.

Changes in
Corresponding
Committee to
be certified to
the Directors
of the Com-
pany in Cana-
da.

VI. And be it enacted, That when and so often as any change shall take place as to the persons who shall for the time being form the Corresponding Committee, such change shall be certified to the Directors of the Company in Canada by some writing to be signed by three of the persons who shall have formed the Corresponding Committee immediately previously to such change taking place, and the persons who shall from time to time be certified in manner aforesaid to be the members forming the Corresponding Committee, shall be considered and treated as such Committee by the Directors of the Company in Canada.

Names and
places of resi-
dence of sub-
scribers in
Great Britain
to be entered
in a book kept
for that pur-
pose.

VII. And be it enacted, That the Corresponding Committee shall cause the names and places of residence of the persons who have subscribed for the said fifty-five thousand shares in the Company so subscribed for by persons resident in Great Britain as aforesaid, and the number of shares belonging to each of such subscribers and the proper number of each share, to be entered in a book to be kept by the Corresponding Committee for that purpose and to be called "The English Share Register Book," and shall from time to time cause entries or alterations to be made in such book, as the transfer or transmission of shares in the Capital of the Company and other circumstances shall make it necessary, in order that the same book may at all times shew who are for the time entitled to the rights of and are to be considered as the English Shareholders of the Company, and in respect of what shares they are

to be considered such Shareholders; and copies of the same book and of the entries or alterations which shall from time to time be made therein as aforesaid, shall be signed by three of the members of the Corresponding Committee and be regularly transmitted to the Directors of the Company in Canada, and the persons who shall thereby appear to be for the time being the English Shareholders of the Company in respect of the shares thereby appearing to be held by them respectively, shall be considered and treated by the Directors as being the English Shareholders in respect of such shares, and the Directors of the Company in Canada shall at all times keep a separate and distinct Register of such English Shareholders and of the shares which may for the time being be held by them respectively, so as to distinguish the English Shareholders of the Company and the shares which may for the time being be held by them respectively, from the other or Canadian Shareholders of the Company and the shares which may for the time being be held by them respectively.

Copies to be sent to Canada.

Persons named therein to be deemed English Shareholders.

Canadian Directors also to keep a Register.

VIII. And be it enacted, That it shall be lawful for any person who shall for the time being be an English Shareholder of the Company in respect of any share or shares, if he shall so desire, to become a Canadian Shareholder in respect of such share or shares, instead of being an English Shareholder in respect thereof, and upon such Shareholder giving notice to the Corresponding Committee of such desire, the Corresponding Committee shall, as soon as conveniently may be, transmit such notice to the Directors of the Company in Canada, and the Corresponding Committee and the said Directors, respectively, shall thereupon and they are hereby required to make such entries or alterations in the Share Register Books to be kept by them respectively, as shall be necessary for the purpose of shewing the change which shall have taken place in respect of such share or shares; and it shall be lawful for any person who shall for the time being be a Canadian Shareholder in the Company in respect of any share or shares, if he shall so desire, to become an English Shareholder in respect of such share or shares, instead of being a Canadian Shareholder in respect thereof, and upon such Shareholder giving notice to the Directors of the Company in Canada of such desire, the Directors shall, as soon as conveniently may be, transmit such notice to the Corresponding Committee, and the said Directors and the Corresponding Committee, respectively, shall thereupon and they are hereby required to make such entries or alterations in the Share Register Books to be kept by them, respectively, as shall be necessary for the purpose of shewing the change which shall have taken place in respect of such share or shares: Provided always, and be it enacted, That until such entries or alterations as aforesaid shall be made in the said Share Register Books both by the Directors of the Company in Canada and the Corresponding Committee, every English Shareholder desiring to become a Canadian Shareholder in respect of any share or shares, and every Canadian Shareholder desiring to become an English Shareholder in respect of any share or shares, shall be considered and treated as being a Shareholder in respect of such share or shares of that class to which he shall have appeared to belong according to the said Share Register Books immediately before he shall have given such notice as aforesaid.

Any English Shareholder may become a Canadian Shareholder, and how.

And any Canadian Shareholder may become an English Shareholder.

Proviso: Such changes not to take effect until registered.

IX. And be it enacted, That it shall not be lawful for the Directors of the Company in Canada, without the confirmation of the Corresponding Committee, to do any act, matter or thing in the management by them of the affairs of the Company in any of the following particulars, that is to say:

Company in Canada not to do certain Acts without confirmation of Corresponding Committee.

First.

First. Contracts where the subject matter shall be of the amount or value of £10,000 sterling or upwards.

Secondly. Appointments or employments where the salary or remuneration shall be at the rate of £150 sterling a year or upwards.

Thirdly. The fixing of the Rates of Tolls and Fares, and all general alterations therein.

Fourthly. The forfeiture of Shares of English Shareholders.

Fifthly. Extensions or alterations of the line of the Rail-road, and all other extensions or alterations in the nature of the undertaking.

Sixthly. Applications to the Legislature for any alteration in the Company's Acts or any of them.

Seventhly. The amount of, or any alteration in the times of making dividends.

Eighthly. Alterations in the amount or constitution of the Capital of the Company.

Ninthly. The contracting, discharging or altering the terms of any permanent loan to be made by or to the Company.

Tenthly. Any other matters as to which such confirmation as aforesaid, may at any time or times be found necessary or expedient for the protection of the English Shareholders, and which may from time to time be agreed upon between the Directors of the Company in Canada and the Corresponding Committee.

Proviso :
Decision of
Corresponding
Committee
when to be
transmitted.

X. Provided always, and be it enacted, That the decision of the Corresponding Committee upon any matter submitted to them for confirmation shall be transmitted from England for the Directors, within twenty-one days after the receipt at the office of the Corresponding Committee of the communication or despatch submitting such matter for confirmation, or within the period of forty days after the receipt at the said office of such communication or despatch, in case the Corresponding Committee shall, within fourteen days after the receipt thereof at the said office send a notification to the Directors in Canada, signifying their intention of submitting such matter to a General Meeting of the English Shareholders.

Communica-
tions of Cor-
responding
Committee to
be signed by
three mem-
bers.

XI. And be it enacted, That all communications and despatches which shall be transmitted from the Corresponding Committee to the Directors, and purporting to be the resolutions or Acts of such Committee or a majority of them, shall be signed by three of the members of the Committee, and all communications and despatches so signed shall be considered and treated by the Directors as the resolutions and acts of such Committee, and be binding accordingly

Corresponding
Committee
may make By-
laws, &c. for

XII. And be it enacted, That the Corresponding Committee shall have power to make from time to time all such By-laws and Regulations for their own government, and for promoting and effecting the objects of their constitution, as to them shall seem expedient,

expedient, and they shall have power, with the concurrence of the English Shareholders, to make and carry into effect all such regulations as they may deem expedient with respect to holding meetings of the English Shareholders, making reports and other communications to them, and generally with such concurrence as aforesaid to do all such acts, matters and things as they may think fit for the management of the affairs of the Company in England, and for the protection of the interests of the English Shareholders.

the protection
of the English
Shareholders.

XIII. And be it enacted, That a general meeting of the Company shall be called at any time by the Directors upon the receipt by them of a requisition to that effect signed by any Shareholder or Shareholders holding in the aggregate not less than one thousand shares in the Company, and every such requisition shall specify the object for which such meeting shall be required to be called, and the Directors shall thereupon give such notice of such meeting as is hereinafter mentioned, and shall specify in such notice the object for which the meeting is required to be held.

General
Meetings of
Company how
to be called.

XIV. And be it enacted, That the Directors shall be subject to the control and authority of the general meetings in the management of the affairs of the Company.

Directors to
be subject to
control of
General
Meetings.
Shareholders
may vote by
proxy.

XV. And be it enacted, That every Shareholder of the Company shall be entitled to appoint any person whomsoever being also a Shareholder to vote and act for him or her by proxy at the general meetings of the Company, according to the number of votes which the persons appointing such proxy shall be entitled to according to the rates of voting which shall for the time being be prescribed by the act or acts of the Company; but no vote or act by proxy of any English Shareholder shall be admitted, unless the person appointed to vote or act as the proxy of such Shareholder shall be nominated by writing under the hand of the Shareholder availing himself or herself of his or her right to vote or act by proxy, and such nomination in writing shall be signed by one at least of the members of the Corresponding Committee or their Secretary, and such proxy shall either continue in force only for the particular meeting for which the same shall have been given, and for every adjournment of such meeting, or shall continue in force for such meetings or for such time as the Shareholder giving such proxy shall thereby direct.

Proxies to be
in writing.

XVI. And be it enacted, That every Shareholder who shall have and appoint such proxy as aforesaid, shall during all such time as such proxy shall be in force be considered as present by such proxy, and all the votes and acts of the proxy in that capacity shall be as valid and effectual as the votes and acts of the Shareholder who appointed such proxy would have been if such Shareholder had been present and voted or acted in his or her own person.

Shareholders
having proxy
to be consider-
ed as present.

XVII. And be it enacted, That the Directors of the Company in Canada shall transmit from Canada for the Corresponding Committee at their office in London, notice of the holding of every general meeting sixty days at the least before the day appointed for the holding of such meeting, and every such notice shall specify the particular object for which such meeting shall have been called, and the nature of the matters intended to be discussed or determined at such meeting: Provided always, that the Directors may call any general meeting upon giving any less extended notice to the Corresponding Committee of the same, whenever they shall be authorized so to do by a resolution of the Corresponding Committee.

Notice of Gen-
eral Meetings
to be transmit-
ted by Com-
pany in Cana-
da to Corres-
ponding Com-
mittee in Lon-
don, within a
certain time.

XVIII.

Notice to be
given by Can-
didates for
office of Di-
rectors.

XVIII. And be it enacted, That all candidates for the office of Director or any other office which shall according to the constitution of the Company be filled by the election of the general meetings, shall leave at the office of the Company in Canada notice in writing of their intention to become such candidates sixty-five days at the least previously to the day of election, and the names of such candidates shall with all convenient speed be from time to time transmitted by the Directors to the Corresponding Committee, and if at any meeting the number of candidates who shall give such notice as aforesaid, shall be sufficient to fill all the offices which shall have to be filled by election at such meeting, no other candidates than those who shall have given such notice shall be proposed at such meeting, but if by reason of neglect to give such notice as aforesaid, or the retirement or death of any candidates after giving such notice, or for any other cause, there shall be at the meeting a deficiency of candidates who shall have given such notice to fill the offices which shall have to be filled up at such meeting, then and in such case it shall be lawful for any Shareholder or Shareholders representing in the aggregate either personally or by proxy ten votes, to propose and nominate any candidate or candidates for any office or offices for which there shall be a deficiency of candidates who shall have given such notice as aforesaid.

Deficiency of
Candidates.

Calls when to
be made.

XIX. And be it enacted, That after the three first calls shall have been made, no call shall be made less than sixty days before the time fixed for payment of such call, and that immediately after any call shall have been made, the Directors of the Company shall transmit notice thereof to the Corresponding Committee, who shall thereupon with all convenient speed give notice of such call to the English Shareholders, and the calls of the English Shareholders shall be paid to the Company's Bankers in London, to the credit of the Company.

Forfeiture of
shares, &c., for
non-payment
of calls.

XX. And be it enacted, That subject to the provisions herein contained, it shall be lawful for the Directors of the Company to declare any share or shares in respect of which any call shall remain unpaid after the time fixed for payment of the same, to be forfeited, and the same shall, unless such forfeiture shall be waived in the manner herein-after mentioned, be forfeited accordingly, and be sold by the Directors for the benefit of the Company: Provided always, that no share of any English Shareholder shall be forfeited for the non-payment of any call if such call shall be paid within twenty-one days after notice of the making of such call shall have been received at the office of the Corresponding Committee, though such call may not be paid until after the day which shall have been fixed for the payment of the same.

Proviso as to
English
Shareholders.

Forfeiture of
shares may be
waived on
certain con-
ditions.

XXI. And be it enacted, That it shall be lawful for the Directors of the Company from time to time to waive the forfeiture of any share or shares belonging to any Canadian Shareholder for the non-payment of any call upon such share or shares, upon condition of the payment by such Shareholder at any time before the share or shares which shall have become subject to forfeiture shall have been sold, of the amount of the call made in respect of the same, together with interest thereon at the rate of five per cent. per annum, to be computed from the time at which such call ought to have been paid, and upon such other conditions (if any) in addition to the payment of such call and interest as to the said Directors shall seem reasonable; and it shall be lawful for the Corresponding Committee from time to time to waive the forfeiture of any share or shares belonging to any English Shareholder for the non-payment of any call upon such share or shares, upon condition of the payment by such Shareholder at any time before

before the share or shares which shall have become subject to forfeiture shall have been sold, of the amount of the call made in respect of the same, together with interest thereon at the rate of five per cent. per annum, to be computed from the time at which such call ought to have been paid, and upon such other conditions (if any) in addition to the payment of such call and interest as to the Corresponding Committee shall seem reasonable.

XXII. And be it enacted, That the Directors shall make a dividend out of the profits of the Company at regular half-yearly intervals, in the months of February and August in every year, and the amount of such dividend shall be distributed equally amongst all the shares in the Company, and the amount of the dividends of the English Shareholders shall be from time to time remitted to the Bankers of the Company in England, to be placed there at the disposition of the Corresponding Committee who shall distribute the same amongst the English Shareholders according to their respective rights and interests therein, in such manner as shall be appointed or agreed upon by the English Shareholders; and all expenses of remitting such dividends and of the distribution of the same or in any wise relating thereto shall be paid out of the general funds of the Company, to the end that the English Shareholders may receive the same amount of Dividend as the other Shareholders of the Company, in proportion to the number of Shares held by them respectively.

Directors to make half yearly dividends.

English Shareholders' dividends to be remitted to England free of charges.

XXIII. And be it enacted, That the Directors of the Company in Canada shall cause minutes of all their proceedings to be entered in a book to be kept for that purpose, and shall cause full and regular accounts to be kept of all monies which shall from time to time be paid or received by them, and of all business which shall be transacted by them or by their order in any wise relating to the affairs of the Company, and shall from time to time with all convenient dispatch transmit to the Corresponding Committee at their office in England copies of all such minutes and accounts, and all such other information as may from time to time be required by the Corresponding Committee in any wise relating to the affairs of the Company.

Directors to cause minutes of proceedings to be entered in a book for that purpose.

XXIV. And be it enacted, That the Corresponding Committee shall keep full and regular accounts of all monies which shall from time to time be paid or received by them on account of, or in any wise relating to the affairs of the Company, and shall from time to time with all convenient dispatch transmit to the Directors of the Company at their office in Canada, copies of such accounts and all such other information as may from time to time be required by the Directors, in any wise relating to the affairs of the Company.

Corresponding Committee to keep regular accounts, &c.

XXV. And be it enacted, That it shall be lawful for the Directors of the Company and the Corresponding Committee from time to time by agreement between themselves, to make any provisions not inconsistent with this Act or any other Act relating to the said Company, for the purpose of regulating the relative rights and interests of the English Shareholders and the Canadian or other Shareholders of the Company, and that all provisions which may be made as aforesaid shall be entered in books to be kept exclusively for that purpose by the Directors of the Company and the Corresponding Committee respectively, and that all such provisions shall, after they shall have been entered, and after notice of the same shall have been given to the Shareholders of the Company, thirty days before the time fixed for the coming into operation thereof, either

Directors and Corresponding Committee may by agreement make provisions not inconsistent with this or any other Act.

either by a circular letter to be sent to each of the Shareholders, or by an advertisement to be inserted twice in at least one public newspaper to be published in the Gore, London and Western Districts, respectively, and the Canada Gazette, and twice in two daily morning London newspapers be considered as forming part of the laws of the Company, and be as binding and effectual as if the same had been expressly enacted by this Act.

Provisions
when lands
required by
Company are
held by per-
sons, bodies,
corporate or
parties unable
to treat, &c.

Arbitrators to
be appointed.

XXVI. And be it enacted, That whenever any lands or grounds required by the said Company, for the purpose of the said Rail-road, are held or owned by any person or persons, bodies corporate, politic or collegiate, whose residence may not be within this Province, or unknown to the said Company, or when the title to any such lands or grounds may be in dispute, or when the owner or owners of such lands or grounds are unwilling or unable to treat with the said Company for the sale thereof, or to appoint Arbitrators, it shall and may be lawful for the said Company, after having first given thirty days notice of such intention in some newspaper published in the District where such lands are situate, to nominate and appoint one or more indifferent person or persons, and for the Judge of the District Court for the District in which such lands or grounds are situate, on the application of the said Company to nominate and appoint an equal number of indifferent persons, who, together with one other person, to be elected by ballot by the persons so named shall be Arbitrators to award, determine, adjudge and order the respective sums of money, which the said Company shall pay to the respective persons entitled to receive the same, for the said lands or grounds, or damages as aforesaid, and the decision of the majority of such Arbitrators shall be final, which said amount so awarded the said Company are to pay or cause to be paid to the said several parties entitled to receive the same, when demanded; and also that a record of such award or arbitration shall be made up and signed by the said Arbitrators or a majority of them, specifying the amount of such award, and the costs of such arbitration, which may be settled by the said Arbitrators or a majority of them, which record shall be deposited in the Registry Office of the County in which such lands or grounds are situated; and also that the expenses of the said arbitration shall be paid by the said Company: Provided always, that in all Arbitrations under this or any other Act relating to the said Rail-road, the Arbitrators shall take into consideration the benefit conferred on the property on which they are arbitrating, as well as the damage done to any particular portion thereof.

Proviso.

The like when
lands are un-
der mortgage.

XXVII. And be it enacted, That whenever any lands or grounds required to be used or occupied by the said Company, shall be held under mortgage, it shall and may be lawful to and for the said Company to nominate and appoint one or more indifferent person or persons, and for the Judge of the District Court for the District in which the lands or grounds are situate, on the application of the said Company, to nominate and appoint an equal number of indifferent persons, who together with one other indifferent person to be elected by ballot by the persons so named, shall be Arbitrators to decide and assess the value of the said lands or grounds, or the amount of damage to be paid to the owner thereof as aforesaid; and upon such decision or award the said Company shall pay or cause to be paid the amount of such award to the Mortgagee, as a payment for and on account of the said mortgage; and upon such payment being so made the Mortgagor and Mortgagee are hereby required and compelled to join in conveying the said lands or grounds to the said Company or their Successors: Provided always, that when the amount of such award shall exceed the amount secured or payable on such mortgage,

Proviso.

mortgage, the said Company after the amount due on such mortgage shall be satisfied, shall pay or cause to be paid the balance of the said award to the Mortgagor, or other person or persons entitled to receive the same.

XXVIII. And be it enacted, That if the double or single iron, or wooden Rail-road or way of the said Company shall pass through tracts of land or property belonging to, or in possession of any Tribe of Indians in this Province, or if any act occasioning damage to their property or possession shall be done under the authority of this Act, compensation shall be made to them therefor in the same manner as is provided with respect to the property, possession or rights of other individuals; and that whenever it shall be necessary that Arbitrators shall be chosen by the parties for settling the amount of such compensation the Chief Officer of the Indian Department within this Province, is hereby authorized and required to name an Arbitrator on behalf of the said Indians, and the amount which shall be awarded in any case shall be paid where such lands belong to any Tribe or body of Indians to the said Chief Officer for the use of such Tribe or body.

When lands belong to any tribe of Indians.

XXIX. And be it enacted, That whenever it shall be necessary for the said Company to occupy any part or parts of the lands or grounds belonging to the Crown or which have been at any time heretofore specially set apart and reserved, or which are designated or commonly known as Crown Lands or lands reserved for Military purposes, they shall first apply for and obtain the license and consent of Her Majesty the Queen, Her Heirs and Successors, under the hand and seal of the Governor, or person administering the Government of this Province for the time being, and having obtained such license and consent, it shall and may be lawful for them at any time or times to enter into and upon, have, hold, use and enjoy any part or parts of the said lands and grounds for the purposes of this Act or for any other purposes connected therewith.

Crown Lands.

XXX. And be it enacted, That after any lands or grounds shall be set out and taken as aforesaid, by the said Company, for the purpose of making and completing the said double or single iron or wooden Rail-road or way, or for other the purposes and conveniences aforesaid, it shall and may be lawful for all bodies corporate, politic or collegiate, corporations, communities, guardians, executors, administrators, and all other trustees or persons, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other person or persons, who are, or shall be seized, possessed of or interested in any lands or grounds which shall be so required as aforesaid, or any part thereof, to contract for, sell and convey unto the said Company, their successors or assigns, all or any part of such lands or grounds which may from time to time be required as aforesaid; and that all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary thereof in anywise notwithstanding: and all bodies politic, corporate or collegiate, and all persons whatsoever so conveying as aforesaid, are hereby indemnified for what he, she or they, or any of them, shall respectively do by virtue of or in pursuance of this Act.

All parties may sell and convey to the Company lands necessary for Rail-road.

XXXI. And be it enacted, That all deeds and conveyances for lands to be conveyed to the said Company for the purposes of this Act may be, as far as the title to the said land or the circumstances of the party making such conveyance will permit in the form given

Deeds and conveyances to be as nearly as may be in

form of Schedule A.

given in the Schedule to this Act marked A, and all Registrars are hereby authorized to enter in their Register Books such deeds on the production and proof of execution thereof without any memorial, and to minute such entry on the said deed; and the said Company are to pay to the said Registrar for so doing the sum of two shillings and six pence, and no more.

Annual Meetings to be held at Hamilton, how to be notified.

XXXII. And be it enacted, That from and after the passing of this Act it shall and may be lawful for the annual meetings of the Stockholders of the said Company, for the election of Directors, to be holden at the Town of Hamilton, in the District of Gore, notice thereof being given at least thirty days prior to such election, in one or more newspapers in each of the Districts of London and Gore, and also in the Western District.

Directors may make provision for the union of the Company with any other.

XXXIII. And be it enacted, That it shall and may be lawful for the Board of Directors, or a majority of them, for the time being, to make such By-laws, Rules and Regulations as they may think proper, for the junction or union of the said Company with any other Company or Companies or Association, formed under any deed or deeds of settlement in England or elsewhere, or by Charter in this Province, and for the management, direction and carrying out of the objects of such junction or union, and for the securing to all parties to such junction or union the stipulations and agreements which may be mutually settled upon between them.

Company to convey Her Majesty's Troops, Police-men, &c. at reasonable rates, to be fixed by the Governor in Council if the parties cannot agree.

XXXIV. And be it enacted, That the said Company shall at all times, when thereunto required by Her Majesty's Deputy Post Master General, the Commander of the Forces, or any person having the command or superintendence of any Police Force, carry Her Majesty's Mail, Her Majesty's Naval or Military Forces, or Militia, and all artillery, ammunition, Provisions or other stores for their use, and all Policemen, Constables, and others travelling on Her Majesty's service on their said Rail-road, on such terms and conditions, and under such regulations as the said Company and the said Deputy Post Master General, the Commander of the Forces, or person in command of any Police Force, respectively, shall agree upon, or if they cannot agree, then upon such terms and conditions and under such regulations as the Governor, or person administering the Government, shall in Council make: Provided, that by such regulations the Company shall not be required to start any train or Steamboat at any other time than their ordinary time of starting the same; but they may be required to provide a separate carriage for the Mail and the person or persons in charge thereof: And provided also, that any further enactments which the Legislature of this Province may hereafter deem it expedient to make with regard to the carriage of the said Mail or Her Majesty's Forces, and other persons and articles as aforesaid, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph, or other service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act; and nothing in this Act contained shall be construed to authorize the said Company to take or enter upon any lands or real estate of any kind belonging to Her Majesty, Her Heirs or Successors, or vested in or held in trust by the Principal Officers of Her Majesty's Ordnance, or any public body, person or party in trust for the uses or service of Her Majesty, Her Heirs or Successors, whether such real estate be held in fee simple or in any less estate, during the continuance of such estate, unless the entering upon or taking of such lands or real estate be authorized by the Governor in Council, or by the Commander in Chief of Her Majesty's Forces in this Province.

Proviso.

Proviso: The Legislature may make further regulations as to such matters.

Proviso as to lands of the Crown or held in trust for the Crown.

XXXV. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way whatsoever the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

Saving of the rights of the Crown and parties not expressly affected.

SCHEDULE A.

Know all men by these presents, that I, A. B., in consideration of the sum of _____ to me in hand paid by the Great Western Rail-road Company, the receipt whereof is hereby acknowledged, have granted, bargained, sold, conveyed and confirmed, and by these presents do grant, bargain, sell, convey and confirm unto *The said Great Western Rail-road Company*, their Successors and Assigns for ever, all that certain parcel or tract of Land and Premises situate and being (*here describe the land,*) the same having been selected by the said Company for purposes connected with their Road : To have and to hold the said Land and Premises, with the appurtenances thereunto belonging, to the said *Great Western Rail-road Company*, their Successors and Assigns for ever.

Witness my Hand and Seal, this _____ day of _____ 18 .

Signed, sealed and delivered, in the presence of _____

[L. S.]

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



A N N O N O N O

VICTORIÆ REGINÆ.

C A P. L X X X I I.

An Act to incorporate the Montreal and Lachine Rail-road Company.

[9th June, 1846.]

WHEREAS the construction of a Rail-road from the City of Montreal to Lachine, would greatly contribute to the facility of intercourse between Upper and Lower Canada, and to the advantage of the City of Montreal and of the Province generally; and whereas the several persons hereinafter named are desirous to make and maintain the said Rail-road: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Thomas Allen Stayner, William Foster Coffin, William Collis Meredith, James Ferrier, Sir George Simpson, William Molson, William Macdonald, George Crawford, David Davidson, Duncan Finlayson, J. G. McTavish, John Silveright, N. Finlayson, John Ballenden, John Rawand, Allan Macdonnell, Edward P. Wilgress, Samuel Gall, John Boston, Benjamin Hart, Theodore Hart, John Carter, T. McCulloch, Andrew Cowan, John Matthewson, Walter Benny, John M. Tobin, John H. Evans, E. H. Mount, James H. Lamb, G. Wilkinson, W. Watson, John Torrance, Charles H. Castle, Isaac J. Gibb, J. G. McKenzie, Donald P. Ross, James Crawford, Robert Morris, W. Murray, James Henderson, M. McCulloch, Aaron H. David, M. E. David, John Ostell, G. P. Dickson, J. H. Birss, John Leeming, William Lunn, James Logan, Dougall Stewart, Jesse Joseph, G. Wilgress, D. L. Macpherson, William Molson, James Cormac, W. S. Macfarlane, Archibald Hall, A. Dow, Hugh Taylor, John Lavanston, Colin Campbell, Peter McKenzie, John Simpson, D. McKenzie, Thomas Taylor, John McKenzie, E. M. Hopkins, Hector McKenzie, John Miles, Charles Geddes, G. D. Watson, John Macdonald, William Cunningham and E. T. Renaud; together with such person or persons as shall, under the provisions of this Act, become subscribers to and proprietors of any share or shares in the Rail-road hereby authorized to be made and other works and property hereinafter mentioned, and their several and respective heirs, executors, administrators, curators and assigns, being proprietors of any such share or shares, are and shall be, and be united into a Company for carrying on, making, completing and maintaining the said intended Rail-road and other works, according to the rules, orders and directions hereinafter expressed, and shall for that purpose be one body politic and corporate by the name of

Preamble.

Certain persons and their successors incorporated for the purposes of this Act: and certain corporate powers conferred on them.

The

Corporate
name.

Word 'Lands'
how under-
stood in this
Act.

Mortmain
Laws not to
apply.

Rail-road may
be made on
any plan.

Direction of
the said Rail-
road.

Company may
hold Steam-
boats, &c., to
ply to a certain
distance from
Lachine up-
wards.

Power to the
Company to
set out and
survey lands
necessary for
their works,
&c.

May get and
place mater-
ials.

Erecting build-
ings, machine-
ry, &c.

The Montreal and Lachine Rail-road Company, and by that name shall have perpetual succession and shall have a common seal, and other the usual powers and rights of bodies corporate not inconsistent with this Act, and by that name shall and may sue and be sued, and also shall and may have power and authority to purchase and hold lands, (which word shall throughout this Act be understood to include the land and all that is upon or below the surface thereof, and all the real rights and appurtenances thereunto belonging,) for them and their successors and assigns, for the use of the said Rail-road and works, without Her Majesty's *Lettres d'Amortissement*, (saving nevertheless to the Seignior or Seigniors within whose *censive* the lands, tenements and hereditaments so purchased may be situate, his and their several and respective *droits d'indemnité*, and all other Seigniorial rights whatever,) and also to alienate and convey any of the said lands, purchased for the purposes aforesaid; and any person or persons, bodies politic or corporate, or communities may give, grant, bargain, sell or convey to the said Company of Proprietors, any lands, for the purposes aforesaid, and the same may re-purchase of the said Company, without *Lettres d'Amortissement*: And the said Company shall be and are hereby authorized and empowered from and after the passing of this Act, by themselves, their deputies, agents, officers, workmen and servants, to make and complete a Rail-road, to be called *The Montreal and Lachine Rail-road*, with one or more sets of Rails or Tracks, and to be worked by locomotive engines, or on the atmospheric principle, or in such other mode as the said Company may deem expedient, from some place in the Parish of Montreal, to some place in the Parish of Lachine, and in as direct a line as may be found convenient, and to erect wharves, warehouses, stores and other buildings at either termination, and at such other places on the line of the said Rail-road as they may deem expedient, and to build, or purchase, hold and use one or more steamboats or other vessels to ply on the waters of the Rivers St. Lawrence and Ottawa from the upper termination of the said Rail-road to any place above such termination, and not more than fifty miles distant from the same.

II. And be it enacted, That for the purposes aforesaid, the said Company, their deputies, servants, agents and workmen, are hereby authorized and empowered to enter into and upon any lands and grounds of the Queen's Most Excellent Majesty, not hereinafter excepted, or of any person or persons, bodies politic or corporate, or collegiate, or communities or parties whatsoever, and to survey and take levels of the same, or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said intended Rail-road, and other works hereby authorized, and all such works, matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing, maintaining and using the said intended Rail-road and other works, and also to bore, dig, cut, trench, get, remove, take, carry away, and lay earth, clay, stone, soil, rubbish, trees, roots of trees, beds of gravel or sand, or any other matters or things which may be dug or got in making the said intended Rail-road or other works, on or out of the lands or grounds of any person or persons adjoining or lying convenient thereto, and which may be proper, requisite or necessary for making or repairing the said intended Rail-road, or the works incidental or relative thereto, or which may hinder, prevent or obstruct the making, using or completing, extending or maintaining the same respectively, according to the intent and purpose of this Act; and to make, build, erect and set up, in or upon the said intended Rail-road, or upon their lands adjoining or near the same respectively, such and so many houses, warehouses, toll-houses, watch-houses, telegraphs or other signals,

signals, weighing beams, cranes, fire-engines, steam-engines, or other engines, either stationary or locomotive, inclined planes, machines, and other works, ways, roads and conveniences, as and when the said Company of Proprietors shall think requisite and convenient for the purposes of the said Rail-road and works; and also from time to time to alter, repair, divert, widen, enlarge and extend the same, and also to make, maintain, repair and alter any fences or passages over, under or through the said intended Rail-road, and to construct, erect and keep in repair any bridges, arches and other works upon and across any rivers or brooks for the making, using, maintaining and repairing the said intended Rail-road; and to turn any such brook, river or water-course, and to change its course; and to construct, erect, make and do all other matters and things which they shall think convenient and necessary for the making, effecting, extending, preserving, improving, completing, and easy using of the said intended Rail-road and other works, in pursuance of, and according to the true intent and meaning of this Act; they, the said Company of Proprietors, doing as little damage as may be, in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned to the owners or proprietors of, or the persons interested in the lands, tenements or hereditaments, water, water-courses, brooks or rivers respectively, which shall be taken, used, removed, prejudiced, or of which the course shall be altered, or for all damages to be by them sustained in or by the execution of all or any of the powers given by this Act; and this Act shall be sufficient to indemnify the said Company and their servants, agents or workmen, and all other persons whatsoever for what they, or any of them, shall do by virtue of the powers hereby granted, subject nevertheless to such provisions and restrictions as are hereinafter mentioned.

Bridges and other works for passing streams, &c.

Other works necessary for the Rail-road.

As little damage as possible to be done, and compensation to be made.

III. Provided always, and be it enacted, That whenever the said Company shall have occasion to carry their said Railway along or across any street or highway in the City of Montreal, they shall at all times leave at least one half of the width of the roadway clear of all obstructions arising from their work, (unless they shall obtain leave to do otherwise under a By-Law of the Corporation of the said City,) and under a penalty of five pounds currency for any contravention, over and above all damages sustained by any party: and the said Company shall not carry the said Rail-road along any street or highway out of the said City, but shall merely cross the same in the line of the said Road, and before they shall in any way obstruct such street or highway with their works, they shall turn the said highway or street, at their own charges so as to leave an open and good passage for carriages free from obstructions, and when their works are completed, they shall replace the said highway or street, under a penalty of Five pounds, currency, for any contravention: but in either case the rail itself, provided it does not rise above or sink below the surface of the Road more than one inch, shall not be deemed an obstruction.

How the Rail-road shall be carried along or across roads and streets in the City.

And across highways out of the City.

Rail itself not to be deemed an obstruction.

IV. And be it enacted, That for the purposes of this Act, the said Company shall and may by some sworn Land Surveyor for Lower Canada, and by an Engineer or Engineers by them to be appointed, cause to be taken and made, surveys and levels of the lands through which the said intended Rail-road is to be carried, together with a map or plan of such Rail-road, and of the course and direction thereof, and of the said lands through which the same is to pass, and the lands intended to be taken for the several purposes authorized by this Act, so far as then ascertained, and also a book of reference for the said Rail-road, in which shall be set forth a description of the said several lands, and the names of the owners, occupiers, and proprietors thereof, so far as they can

Company by a sworn Surveyor or Engineer shall take surveys and levels of the lands through which the Rail-road is to be carried, and make a map or plan.

Plan and book of reference to

be made and deposited.

The same to be examined and deposited.

Copies or extracts may be taken and used.

Fee.

Certified copies to be evidence.

can be ascertained by the said Corporation, and in which shall be contained every thing necessary for the right understanding of such map or plan; which said map or plan and book of reference shall be examined and certified by the person performing the duties formerly assigned to the Surveyor General, or his Deputies, who shall deposit copies thereof in the office of the Prothonotary of the Court of Queen's Bench for the District of Montreal, and also in the office of the Secretary of the Province, and shall also deliver one copy thereof to the said Company; and all persons shall have liberty to resort to such copies so to be deposited as aforesaid, and to make extracts or copies thereof as occasion shall require paying to the said Secretary of the Province, or to the said Prothonotary, at the rate of six pence current money of this Province, for every hundred words; and the said triplicates of the said map or plan and book of reference, so certified, or a true copy or copies thereof, certified by the Secretary of the Province, or by the Prothonotary of the Court of Queen's Bench for the said District, shall severally be, and are hereby declared to be good evidence in the Courts of Law and elsewhere.

When the Rail-road crosses or is carried along any highway, the rail, &c., to be within one inch of the surface.

Locomotives not to be worked in the City beyond Cemetery street.

But Cars may, if drawn by horses, &c.

Height of bridges for carrying the Rail-road over any highway.

Descent under such bridge.

V. Provided always, and be it enacted, That where the said Rail-road shall cross or be carried along any street or public highway, (which words shall in this Act, include all public streets, lanes or other public ways or communications,) neither the rail, nor any other part of the Rail-road or works connected therewith, shall rise above the level of such street or highway, or sink below the level of such street or highway more than one inch; and the said Rail-road may be carried across any street or highway, and across or above any public highway in the City of Montreal, and within the limits aforesaid, but no locomotive shall be worked on the Rail-road within the said City, beyond Cemetery street, nor shall any car or carriage be drawn or propelled within the City beyond the point aforesaid by steam or atmospheric pressure, or by any other power than that of horses or other animals, attached to the cars or carriages.

VI. Provided always, and be it enacted, That where any bridge shall be erected or made by the said Company, for the purpose of carrying the said Rail-road over or across any public highway, the space of the arch of any such bridge shall be formed and shall at all times be and be continued of such breadth as to leave a clear and open space under every such arch of not less than twenty feet, and of a height from the surface of such public highway to the centre of such arch, of not less than sixteen feet; and the descent under any such bridge shall not exceed one foot in twenty feet.

And of bridges for carrying a public road over the Rail-way.

Fence to bridge.

VII. Provided always, and be it enacted, That in all places where it may be necessary to erect, build or make any bridge or bridges for carrying any public carriage road over the said Rail-road, the ascent of every such bridge for the purpose of every such road, shall not be more than one foot in twenty feet; and a good and sufficient fence shall be made on each side of every such bridge, which fence shall not be less than four feet above the surface of such bridge.

Company shall keep watchmen where the Rail-road crosses any highway on a level.

VIII. Provided always, and be it enacted, That the said Company shall, at each and every place where the said Rail-road shall cross any public highway on a level, station and keep at all hours when any engine or carriage is or may be, according to the arrangements of the said Company, running or moving on any part of the said Rail-road, at least one person as a guard, whose duty it shall be to prevent any obstruction being or remaining upon the said Rail-road or upon such public highway, and to warn and watch

watch over the safety of the persons or property passing and conveyed either upon the said Rail-road or on such highway; and shall in like manner and for the performance of a like duty keep one person (exclusive of those to be stationed at the points aforesaid) to be stationed at distances not exceeding two miles on the said Rail-road; And for each and every neglect to comply with the requirements of this section the said Company shall incur a penalty not exceeding five pounds, currency.

And at every two miles elsewhere.

Penalty for neglect.

IX. And be it enacted, That the said Company, in making the said intended Rail-road, shall not deviate more than a mile from the line of the Rail-road or from the places assigned to the several works of the Company, in the map or plan and book of reference deposited aforesaid, nor cut, carry, place, lay down or convey the said Rail-road into, through, across, under or over any part of the lands or grounds shown and mentioned in such map or plan and book of reference, as being required for such purpose, or as being within one mile of the said line and of the places assigned therein to the said works respectively, (save in such instances as are herein specially provided for,) without the consent of the party or parties who could, under the provisions of this Act, convey such lands.

Company not to deviate more than one mile from the line to be shewn in the map aforesaid.

Except by consent of parties.

X. And be it enacted, That the said Company may make, carry or place their said intended Rail-road and works, into, across or upon the lands of any person or party whomsoever on the line aforesaid, although the name of such party be not entered in the said book of reference, through error, want of sufficient information, or any other cause, or although some other person or party be erroneously mentioned as the owner of or party entitled to convey or interested in such lands.

Errors in the book of reference not to prevent the making of the Road, on the line shewn.

XI. And be it enacted, That the lands or grounds to be taken or used for such intended Rail-road, and the ditches, drains and fences to separate the same from the adjoining lands, shall not exceed thirty yards in breadth, except in such places where the said intended Rail-road shall be raised more than five feet higher, or cut more than five feet deeper than the present surface of the land, and in such places where it shall be judged necessary to have off-sets for the locomotives or other engines and carriages using the said intended Rail-road, to be or pass each other (and not above one hundred yards in breadth in any such place), or where any houses, ware-houses, wharves, toll-houses, watch-houses, weighing-beams, cranes, fixed engines or inclined planes, may be erected, or goods, wares or merchandize be delivered, (and then not more than two hundred yards in length, by one hundred and fifty yards in breadth,) without the consent of some party who can, under the provisions of this Act, convey such lands to the said Company, and the places at which such *extra-breadth* is to be taken, shall be shewn on the said map or plan: Provided always, that no land shall be taken by the said Company from any public highway, but their right shall be limited to the laying down, across, or along the same, the rails and other contrivances, forming part of the said Rail-road, subject to the limitations mentioned in the fifth Section, or any other part of this Act; nor shall any lands or property vested in the Board of Works, or in the Commissioners for improving and enlarging the Harbour of Montreal, or placed under their control, be taken by the said Company.

Lands taken for Rail-road not to exceed thirty yards in breadth.

Exceptions for off-sets passing places, &c.

And for stations for machinery, &c.

Proviso as to certain lands held for public uses, Roads, &c.

XII. And be it enacted, That it shall be lawful for the said Company to take, use, occupy and hold, but not to alienate, so much of the Public Beach or Beach-road, or of the land covered with the waters of the River Saint Lawrence, in the Parish of Lachine aforesaid,

Company may use the Public Beach at Lachine, doing

no damage to
the navigation.

aforesaid, (not exceeding the quantity limited in the next preceding Section) as may be required for the said Rail-road, and other works which they are hereby authorized to construct, doing no damage to nor causing any obstruction in the navigation of the said River.

After any
lands have so
been set out, all
bodies corpo-
rate, &c., may
sell their prop-
erty therein
to the Com-
pany.

XIII. And be it enacted, That after any lands or grounds shall be set out and ascertained in manner aforesaid, for making and completing the said Rail-road and other works, and other the purposes and conveniences hereinbefore mentioned, it shall and may be lawful for all bodies politic, corporate, or collegiate, corporations aggregate or sole, communities, *grevés de substitution*, guardians, curators, executors, administrators, and all other trustees or persons whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons or parties, who are or shall be seized, possessed of or interested in any lands or grounds which shall be so set out and ascertained as aforesaid, or any part thereof, to contract for, sell and convey unto the said Company, all or any part of such lands or grounds which shall under this Act be set out and ascertained as aforesaid; and that all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary thereof in any wise notwithstanding; and that all bodies politic, corporate or collegiate, or communities, and all persons whatsoever, so conveying as aforesaid, are hereby indemnified for what he, she, or they, or any of them shall respectively do by virtue of or in pursuance of this Act: Provided always, that before the map or plan and book of reference shall be deposited as aforesaid, and before the lands required for the said Rail-road and works shall be set out and ascertained, it shall be lawful for any party who might under this Act convey any lands to the said Company, if the same were so set out and ascertained, to agree with the Company for the price to be paid for such lands if they shall be thereafter so set out and ascertained; and such agreement shall be binding, and the price agreed upon shall be the price to be paid by the Company for the same lands, if they shall be afterwards so set out and ascertained, within one year from the date of such agreement, and although such land may in the mean time have become the property of a third party.

Proviso.

Parties who
may convey
lands may, be-
fore any lands
are so set out,
agree with the
Company for
the price to be
paid for them
if they be af-
terwards re-
quired.

Where no
power is vested
in any body
corporate or
other party to
sell, a fixed
annual rent to
be established
instead of a
princi al sum.

Privilege
granted for se-
curing such
Rent or any
purchase
money not
paid.

XIV. Provided always, and be it enacted, That any body politic, community, corporation, or other person or persons whomsoever, who cannot in common course of law sell or alienate any lands or grounds so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds so set out and ascertained as necessary for making the said Rail-road, and other the purposes and conveniences relative thereto and connected therewith; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner hereinafter prescribed, and all proceedings shall in that case be regulated as hereinafter prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid by the said Company for the purchase of any lands, or for any part of the purchase money of any land, which the vendor shall agree to leave in the hands of the said Company, the said Rail-road and the Tolls to be levied and collected thereon shall be, and are hereby made liable and chargeable, in preference to all other claims or demands thereon whatsoever, the deed creating such charge and liability being duly registered.

XV.

XV. Provided always, and be it enacted, That whenever there shall be more than one party proprietor of any land or property *par indivis*, any agreement made in good faith, between the said Company and any party or parties proprietor, or being together proprietors, of one third or more of such land or property, as to the amount of compensation for the same or for any damages thereto, shall be binding as between the remaining proprietor or proprietors *par indivis* and the Company; and the proprietor or proprietors who have so agreed, may deliver possession of such land or property to the Company, or empower them to enter upon the same, as the case may be.

Agreement with proprietors *par indivis* to a certain extent shall bind the rest.

XVI. And be it enacted, That so soon as the said map or plan and book of reference shall have been deposited as aforesaid, and notice of its being so deposited shall have been given during at least one calendar month, in at least one newspaper published in the City of Montreal, in the English language, and in at least one newspaper there published in the French language, it shall be lawful for the said Company to apply to the several owners of or parties hereby empowered to convey the lands through which such Rail-road is intended to be carried, or which may suffer damage from the making of the said Rail-road, or the exercise of any of the powers granted to the said Company by this Act, and to agree with such owners or parties respectively, touching the compensation to be paid to them by the said Company for the purchase thereof, and for their respective damages, and to make such agreements and contracts with the said parties touching the said lands, or the compensation to be paid for the same, or for the damages, or as to the mode in which the said compensation shall be ascertained, as to such parties and the said Company shall seem expedient; and in case of disagreement between the said Company and the said owners or parties or any of them, then all questions which shall arise between them and the said Company shall be settled as follows, that is to say:

The Company to apply to the owners of the lands through which the Rail-road is to be carried, touching the compensation to be paid for the same, or for any right exercised upon them.

Or as to mode of establishing such compensation.

How the same shall be settled when the parties cannot agree.

The deposit of the map or plan and book of reference, and the notice of such deposit, given as aforesaid, shall be deemed a general notice to all such parties as aforesaid, of the lands which will be required for the said Rail-road and works.

Legal effect of map and book of reference.

The Company shall serve a notice upon the opposite party, containing—a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands (describing them)—a declaration that the Company are ready to pay some certain sum (or rent, as the case may be,) as compensation for such lands or for the damages arising from the exercise of such power—and the name of a person whom they appoint as their Arbitrator if their offer be not accepted—and such notice shall be accompanied by the certificate of some sworn Surveyor for Lower Canada, resident in Montreal, disinterested in the matter, and not being the Arbitrator named in the notice, that the land (if the notice relate to the taking of land) is shewn on the map or plan deposited as aforesaid, as being required for the said Rail-road and works, that he knows such land, or the amount of damages likely to arise from the exercise of such powers, and that the sum so offered is in his opinion a fair compensation for such land and for such damages as aforesaid.

Notice to opposite party.

Offer.

Name of arbitrator.

Certificate of a Surveyor that the offer is a fair one, &c.

If the opposite party be absent from the District of Montreal or be unknown to the said Company, then upon application to any Justice of the Court of Queen's Bench for the said District, accompanied by such certificate as aforesaid, and by an affidavit of some Officer of the Company, that such opposite party is so absent, or that after diligent

If party be absent or unknown.

diligent inquiry the party on whom the notice ought to be served cannot be ascertained, such Justice shall order a notice as aforesaid (but without the certificate) to be inserted during one calendar month in some newspaper published in the City of Montreal in the English language, and in some newspaper there published in the French language.

Party not accepting the Company's offer, and not appointing an Arbitrator.

If within ten days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party shall not notify to the Company that he accepts the sum offered by the said Company, or notify to them the name of a person whom he appoints as Arbitrator, then any Justice of the Court of Queen's Bench may, on the application of the said Company, appoint some sworn Surveyor for Lower Canada, resident in Montreal, to be sole Arbitrator for determining the compensation to be paid by the Company.

Opposite party appointing an Arbitrator.

If the opposite party shall, within the time aforesaid, notify to the said Company the name of the person such party shall appoint as Arbitrator, then the said two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, then any Justice of the Court of Queen's Bench shall, on the application of the said party or of the Company, (previous notice of at least one clear day having been given to the Arbitrator of the other party,) appoint a third Arbitrator.

Third Arbitrator.

Duties of Arbitrators after being sworn.

The said Arbitrators or sole Arbitrator, being sworn before some Commissioner for receiving affidavits to be used in the said Court of Queen's Bench, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation to be paid by the Company, in such way as they or he, or a majority of them, shall deem best, and the award of such Arbitrators, or of any two of them, or of the sole Arbitrator, shall be final and conclusive : Provided, that no such award shall be made or any official act done by such majority, except at a meeting held at a time and place, of which the other Arbitrator shall have had at least one clear day's notice, or to which some meeting at which the third Arbitrator was present shall have been adjourned ; but no notice to the Company or opposite party shall be necessary, but they shall be held sufficiently notified through the Arbitrator they shall have appointed or whose appointment they shall have required.

proviso.
Award not to be made except at proper meetings or times.

Costs how paid.

Provided always, that the award given by any sole Arbitrator shall never be for a less sum than that offered by the Company as aforesaid ; and if in any case where three Arbitrators shall have been appointed, the sum awarded be not greater than that offered by the Company, the costs of the arbitration shall be borne by the opposite party, and deducted from the compensation, otherwise they shall be borne by the Company ; and in either case they may, if not agreed upon, be taxed by any Justice of the Court of Queen's Bench.

Arbitrators to have power to examine witnesses on oath. False statement to be perjury.

The Arbitrators, or a majority of them, or the sole Arbitrator, may examine on oath, or solemn affirmation, the parties or such witnesses as shall voluntarily appear before him or them, and may administer such oath or affirmation ; and any wilful false statement made by any witness, under such oath or affirmation, shall be deemed wilful and corrupt perjury, and punishable accordingly.

Time within which award must be made.

The Justice of the Court of Queen's Bench by whom any third Arbitrator or sole Arbitrator shall be appointed, shall, at the same time, fix a day on or before which the award

award shall be made, and if the same be not made on or before such day, or some other day to which the time for making it shall have been prolonged, either by the consent of the parties, or by the order of a Justice of the said Court, (as it may be for reasonable cause shown, on the application of such sole Arbitrator or one of the Arbitrators after one clear day's notice to the others,) then the sum offered by the Company as aforesaid shall be the compensation to be paid by them.

Time may be prolonged in certain cases.

If the Arbitrator appointed by the said Company or by the opposite party shall die before the award shall be made, the said Company or the opposite party (as the case may be) may appoint another in his stead, notifying the other Arbitrators of such appointment, and if the sole Arbitrator shall die before the award be made, any Justice of the Court of Queen's Bench may, on the application of the said Company, appoint another, but no recommencement or repetition of prior proceedings shall be required.

Arbitrator dying.

It shall be no disqualification to the Surveyor or other person offered or appointed as Valuator, or as Arbitrator, that he be professionally employed by the Company or by the opposite party, or that he have previously expressed an opinion as to the amount of compensation, or that he be related or of kin to any member of the Company, provided he be not himself personally interested in the amount of such compensation; and no cause of disqualification shall be urged against any Arbitrator appointed by a Justice of the Court of Queen's Bench after his appointment, but shall be made before the same, and its validity or invalidity, summarily determined by such Justice; and no cause of disqualification shall be urged against any Arbitrator appointed by the Company, or by the opposite party, after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator, before the appointment of a third Arbitrator, shall be summarily determined by any Justice of the said Court on the application of either party, after one clear day's notice to the other, and if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified shall be held to have appointed no Arbitrator.

Arbitrators not disqualified by certain circumstances

Cause of disqualification when to be urged.

How tried and determined.

No award made as aforesaid shall be invalidated by any want of form or other technical objection, if the requirements of this Act shall have been complied with, and if the award shall state clearly the sum awarded, and the lands or other property, right or thing for which such sum is to be the compensation; nor shall it be necessary that the party or parties to whom the sum is to be paid be named in the award.

Awards not to be avoided by mere want of form.

Parties need not be named in the award.

XVII. And be it enacted, That upon payment or legal tender of the compensation or annual rent so awarded or determined as aforesaid to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award shall vest in the said Company the power forthwith to take possession of the lands or to exercise the right or to do the thing for which such compensation or annual rent shall have been awarded; and if any resistance or forcible opposition shall be made by any person or party to their so doing, any Justice of the Court of Queen's Bench may, on proof to his satisfaction that the requirements of this Act have been complied with, issue his Warrant to the Sheriff of the District, or to any Bailiff of the Court (as in his discretion may be most suitable), to put the said Company in possession, and to put down such resistance or opposition, which such Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do.

Possession may be taken on payment, tender or deposit of the sum awarded.

Warrant of possession in case of resistance.

XVIII.

As to incumbrances or claims to or upon the lands so purchased or taken
Compensation to stand in the place of the land.

Proviso.
Proceedings if the Company have reason to fear incumbrances, or claims by other parties than the vendor.

Costs and interest how paid, &c.

All agreements, sales, awards, &c., to be duly registered.

Proviso as to lands which

XVIII. And be it enacted, That the compensation awarded as aforesaid or agreed upon by the said Company, and any party who might under this Act validly convey the lands, or then in lawful possession thereof as proprietor, for any lands which might be lawfully taken under this Act without the consent of the proprietor, shall stand in the stead of such land; and any claim to, or hypothec or incumbrance upon the said land, or any portion thereof, shall, as against the said Company, be converted into a claim to the said compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party: Provided always, that if the said Company shall have reason to fear any such claims, hypothecs, or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the hands of the Prothonotary of the said Court of Queen's Bench, with the interest thereon for six months, and to deliver to the said Prothonotary an authentic copy of the conveyance, or of the award if there be no conveyance, and such award shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the said Company, in like manner as in other cases of confirmation of title, except that in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company, (that is the conveyance or award,) is under this Act, and shall call upon all persons entitled to, or to any part of the land, or representing, or being the husbands of any parties so entitled, to file their oppositions for their claims to the compensation, or any part thereof, and all such oppositions shall be received and adjudged upon by the Court, and the judgment of confirmation shall for ever bar all claims to the lands, or any part thereof, (including dower not yet open,) as well as all hypothecs or incumbrances upon the same; and the Court shall make such order for the distribution, payment, or investment of the compensation, and for the securing of the rights of all parties interested as to right and justice, according to the provisions of this Act and to law, shall appertain; and the costs of the said proceedings, or any part thereof, shall be paid by the said Company, or by any other party, as the Court shall deem it equitable to order; and if judgment of confirmation be obtained in less than six months from the payment of the compensation to the Prothonotary, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault, or neglect of the Company, it shall not be obtained until after the six months are expired, the Court shall order the Company to pay to the Prothonotary the interest for such further period as may be right.

XIX. And be it enacted, That all agreements, sales and conveyances, made to or with the said Company, concerning lands which might be taken under this Act without the consent of some person hereby authorized to convey the same, and all awards of Arbitrators as aforesaid, concerning such lands, shall be registered in the Registry Office for the County of Montreal, within thirty days from the date thereof respectively, although the Company may be in open and public possession of such lands.

XX. Provided always, and be it enacted, That with regard to any lands which could not be taken without the consent of some party entitled under this Act to convey the

the same, or in any case in which the requirements of this Act shall not have been complied with, and in all cases where land shall have been taken or damage shall have been done by the Company without previously complying with the requirements of this Act, the rights of the Company and of other parties shall be governed by the ordinary rules of law.

XXI. And be it enacted, That all suits for indemnity for any damage or injury sustained by reason of the powers and authority given by this Act shall be made within six calendar months next after the time of such supposed damage sustained, or in case there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards, and the Defendant or Defendants shall and may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and may aver that the same was done in pursuance and by authority of this Act.

XXII. And be it enacted, That if any person shall, by any means or in any manner or way whatsoever, obstruct or interrupt the free use of the said Rail-road, or the carriages, vessels, engines or other works incidental or relative thereto, or connected therewith, such person shall for every such offence incur a forfeiture or penalty of not less than five pounds, nor exceeding ten pounds, currency; one half of which penalty and forfeiture, to be recovered before one or more Justices of the Peace for the District, shall go to the prosecutor or informer, and the other half to Her Majesty, Her Heirs and Successors, and shall be paid into the hands of the Receiver General, and be applied for the public uses of this Province, and the support of the Government thereof.

XXIII. And be it enacted, That if any person or persons shall wilfully and maliciously, and to the prejudice of the said Rail-road authorized to be made by this Act, break, throw down, damage or destroy the same, or any part thereof, or any of the houses, warehouses, toll-houses, watch-houses, weigh-beams, cranes, carriages, vessels, engines, inclined planes, machines or other works or devices, incidental and relative thereto or connected therewith, or do any other wilful hurt or mischief, or wilfully or maliciously obstruct or interrupt the free use of the said Rail-road, vessels or works, or shall obstruct, hinder or prevent the carrying on, completing, supporting and maintaining the said intended Rail-road, vessels or works, such person or persons shall be adjudged guilty of felony, and the Court by and before whom such person or persons shall be tried and convicted, shall have power and authority to cause such person or persons to be punished in like manner as felons are directed to be punished by the laws in force in this Province, or in mitigation thereof to award such sentence as the law directs in cases of simple larceny, as to such Court shall seem fitting.

XXIV. And to the end that the said Company of Proprietors may be enabled to carry on so useful an undertaking: Be it enacted, That it shall and may be lawful for the said Company of Proprietors and their successors, to raise and contribute among themselves, in such proportions as to them shall seem meet and convenient, a competent sum of money for the making and completing the said Rail-road and vessels, and all such other works, matters and conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining and using the said Rail-road, vessels and other works: Provided always, that the before mentioned Sir George Simpson, James Ferrier, Thomas A. Stayner, William C. Meredith, William Dow, William Molson,

cannot be taken without the consent of a party who could convey, or when this Act shall not have been complied with.

All applications for indemnity for damage done under this Act, to be made within a certain time.
General issue.

Penalty on persons obstructing the free use of the Rail-road.

How recoverable and applicable.

Punishment of persons breaking down or obstructing or damaging the Rail-road or any works of the Company.

Company to contribute among themselves the necessary sums for carrying on their undertaking.

Proviso. Books of subscription to be opened.

Molson, William F. Coffin, William Macdonald, George Crawford, David Davidson, (being the Provisional Committee named by the Petitioners, or a majority of them,) shall cause books of subscription to be opened in the City of Montreal, at such place therein as they shall from time to time appoint until the first meeting of Proprietors hereinafter provided for, for receiving the signatures of persons willing to become subscribers to the said undertaking, and for this purpose they shall give public notice in some newspaper published in the said City of Montreal, in the English language, and in some newspaper there published in the French language, of the time and place at which such books will be opened and ready for receiving signatures as aforesaid, and of the persons by them authorized to receive such subscriptions; and every person who or whose Attorney shall write his or her signature in such book as a subscriber to the said undertaking, shall thereby become a Member of the said Corporation, and shall have the same rights and privileges, as such, as are hereby conferred on the several persons who are herein mentioned by name as Members of the said Corporation: Provided always, that the sums so raised shall not exceed the sum of seventy-five thousand pounds, currency, of this Province, in the whole, except as hereinafter mentioned, and that the same be divided into such number of shares as hereinafter directed, at a price of fifty pounds, currency, aforesaid, per share; and the money so to be raised is hereby directed and appointed to be laid out and applied in the first place for and towards the payment, discharge and satisfaction of all fees and disbursements for obtaining and passing this Act, and for making the surveys, plans and estimates incident thereto, and all other expenses relating thereunto, and all the rest, residue and remainder of such money for and towards making, completing and maintaining the said Rail-road, and other the purposes of this Act, and to no other use, intent or purpose whatever.

Proviso.
Capital limited,
and divided in-
to shares of
£50 each.

Order of
charges on the
Capital.

The sum that
may be raised
by the Com-
pany of Pro-
prietors, to be
divided into
shares.

To be personal
property and
transferable.

Rights of
Shareholders
to profits, &c.

Their liabili-
ties.

XXV. And be it enacted, That the said sum of seventy-five thousand pounds, currency, or such part thereof as shall be raised by the several persons hereinbefore named, and by such other person or persons who shall or may at any time become a subscriber or subscribers to the said Rail-road, shall be divided and distinguished into fifteen hundred equal parts or shares, at a price not exceeding fifty pounds currency aforesaid per share; and that the shares be deemed personal estate, and shall be transferable as such; and that the said fifteen hundred shares shall be and are hereby vested in the said several subscribers and their several respective heirs, executors, curators, administrators and assigns, to their and every of their proper use and behoof, proportionally to the sum they and each of them shall severally subscribe and pay thereunto; and all and every the bodies politic, corporate or collegiate, or communities, and all and every person or persons, their several and respective successors, executors, curators, administrators and assigns, who shall severally subscribe and pay the sum of fifty pounds, or such sum or sums as shall be demanded in lieu thereof, towards carrying on and completing the said Rail-road, shall be entitled to and receive, after the said Rail-road shall be completed, the entire and net distribution of the profits and advantages that shall and may arise and accrue by virtue of the sum and sums of money to be raised, recovered or received by the authority of this Act, in proportion to the number of shares so held; and every body politic, corporate or collegiate, or community, person or persons, having such property of one fifteen hundredth part or share in the said undertaking, and so in proportion as aforesaid, shall bear and pay an adequate and proportional sum of money towards carrying on the said undertaking in manner by this Act directed and appointed.

XXVI. And be it enacted, That in case the said sum of seventy-five thousand pounds, hereinbefore authorized to be raised, shall be found insufficient for the purposes of this Act, then and in such case it shall be lawful for the said Company to raise and contribute amongst themselves, in manner and form aforesaid, and in such shares and proportions as to them shall seem meet, or by the admission of new subscribers, a further or other sum of money for completing and perfecting the said intended Railroad, and other works or conveniences incidental or relative thereto, or hereby authorized, not exceeding the sum of twenty-five thousand pounds, currency, aforesaid ; and every subscriber towards raising such further or other sum of money, shall be a proprietor in the said undertaking, and have a like right of voting in respect of his, her or their share or shares in the said additional sum so to be raised, and shall also be liable to such obligations, and stand interested in all the profits and powers of the said undertaking, in proportion to the sum he, she or they shall or may subscribe thereto, as generally and extensively as if such other or further sum had been originally raised as a part of the said first sum of seventy-five thousand pounds ; any thing herein contained to the contrary notwithstanding.

If this sum should not be sufficient, the Company may raise a further sum for completing their undertaking.

XXVII. And be it enacted, That the said Company may from time to time lawfully borrow either in this Province or elsewhere such sum or sums of money, not exceeding at any one time the sum of fifty thousand pounds, currency, as they may find expedient, and at such rate of interest not exceeding six *per cent per annum*, as they may think proper ; and may make the bonds, debentures or other securities, they shall grant for the sums so borrowed payable either in currency or in sterling, and at such place or places within or without this Province as they may deem advisable, and may hypothecate or pledge the lands, tolls, revenues, and other property of the said Company for the due payment of the said sums and the interest thereon.

Company may borrow in this Province or elsewhere a sum not exceeding at one time £50,000 currency. And grant hypothec on their property.

XXVIII. And be it enacted, That the number of votes to which each Proprietor of shares in the said undertaking shall be entitled on every occasion when in conformity to the provisions of this Act, the votes of the Members of the said Company of Proprietors are to be given, shall be in the proportion to the number of shares held by him, that is to say, one vote for each share less than fifty ; Provided always, that no one Proprietor as aforesaid shall have more than fifty votes ; and all Proprietors of shares whether resident in this Province, or elsewhere, may vote by proxy, if he, she, or they shall see fit, provided that such proxy do produce from his constituent or constituents, an appointment in writing, in the words or to the effect following, that is to say :

Votes of Proprietors according to the number of their shares.

Proviso.

Proprietors may vote by proxy.

" I, _____ of _____ one of the Proprietors of
 " the *Montreal and Lachine Rail-road*, do hereby nominate, constitute, and appoint
 " _____ of _____ to be my proxy,
 " in my name, and in my absence to vote or give my assent or dissent to any business,
 " matter, or thing, relating to the said undertaking, that shall be mentioned or proposed
 " at any meeting of the Proprietors of the said undertaking, or any of them, in such
 " manner as he the said _____ shall think proper, according
 " to his opinion and judgment, for the benefit of the said undertaking, or anything
 " appertaining thereto. In witness whereof, I have hereunto set my hand and seal,
 " the _____ day of _____ in the year _____

Form of appointment of proxy.

And

Questions to be decided by majority of votes.

And such vote or votes by proxy shall be as valid as if such principal or principals had voted in person ; and whatever question, election of proper Officers, or matters or things shall be proposed, discussed, or considered in any public meeting of the Proprietors to be held by virtue of this Act, shall be determined by the majority of votes and proxies then present and so given as aforesaid, and all decisions and acts of any such majority shall bind the said Company.

None but a British subject to be President or Treasurer.

XXIX. Provided always, and be it enacted, That no Proprietor who shall not be a natural born subject of Her Majesty, or a subject of Her Majesty naturalized under an Act of the British Parliament, or an Act of the Parliament of this Province, shall be elected President or Treasurer of the said Company.

Shareholders not liable for the debts of the Corporation.

XXX. And be it enacted, That no Shareholder in the said Company of Proprietors, shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Company beyond the extent of his, her or their share in the Capital of the said Company not paid up.

The first General Meeting of the Proprietors to be held at the Court House in the City of Montreal.

XXXI. And be it enacted, That the first General Meeting of the Proprietors for putting this Act in execution, may be held at the Court House, in the City of Montreal, whenever the fifteen hundred shares in the said undertaking shall have been subscribed for, provided that public notice thereof be given during one week in some newspaper published in the English language and in some newspaper published in the French language, at Montreal, and signed by at least ten of the subscribers to the said undertaking holding among them at least two hundred shares ; and at such said General Meeting the Proprietors assembled, with such proxies as shall be present, shall choose thirteen persons, being each a Proprietor of not less than twenty shares in the said undertaking, to be Directors of the said Company, in such manner as is hereinafter directed, and shall also proceed to pass such Rules and Regulations and By-Laws as shall seem to them fit, provided they be not inconsistent with this Act.

To elect a Board of thirteen Directors.

In the month of January, 1848, and of each year thereafter, a Board of Directors to be elected.

XXXII. And be it enacted, That the Directors first appointed, (or those appointed in their stead in case of vacancy) shall remain in office until the election of Directors in the month of January, one thousand eight hundred and forty-eight, and that in the month of January in the said year and each year thereafter, and on such day of the month as shall be appointed by any By-Law, an Annual General Meeting of the said Proprietors shall be held to choose Directors in the room of those whose office may at that time become vacant, and generally to transact the business of the Company ; but if at any time it shall appear to any ten or more of such Proprietors, holding together two hundred shares at least, that for more effectually putting this Act in execution, a Special General Meeting of Proprietors is necessary to be held, it shall be lawful for such ten or more of them to cause fifteen days' notice at least to be given thereof in two public newspapers as aforesaid, or in such manner as the Company shall, by any By-Law direct or appoint, specifying in such notice the time and place, and the reason and intention of such Special Meetings, respectively ; and the Proprietors are hereby authorized to meet pursuant to such notices, and proceed to the execution of the powers by this Act given them, with respect to the matters so specified only ; and all such acts of the Proprietors, or the majority of them, at such Special Meetings assembled, such majority not having either as principals or proxies, less than two hundred shares, shall be as valid to all intents and purposes as if the same were done

Special Meetings of Proprietors may be called.

Quorum at Special Meetings.

at Annual Meetings: Provided always, that it shall and may be lawful for the said Company of Proprietors at such Special Meetings, (in like manner as at Annual Meetings,) in case of the death, absence, resignation or removal of any person elected a Director to manage the affairs of the said Company in manner aforesaid, to elect another or others in the room or stead of those of the Directors who may die, or be absent, resign, or be removed, as aforesaid; any thing in this Act to the contrary notwithstanding; but if such election be not made, such death, absence, or resignation shall not invalidate the acts of the remaining Directors.

Proviso:
Vacancies
among the Di-
rectors may be
filled at Spe-
cial Meetings

XXXIII. And be it enacted, That at each of the said Annual Meetings of Proprietors, three of the said thirteen Directors shall retire in rotation, the order of retirement of the said first elected thirteen Directors being decided by lot, but the Directors then or at any subsequent time retiring shall be eligible for re-election: Provided always, that no such retirement shall have effect unless the Proprietors shall at such Annual Meeting proceed to fill up the vacancies thus occurring in the direction.

Three Direc-
tors shall an-
nually retire,
by lot, but
may be re-
elected.
Proviso.

XXXIV. And be it enacted, That any Meeting of the said Directors, at which not less than five Directors shall be present, shall be competent to use and exercise all and any of the powers hereby vested in the said Directors of the said Company: Provided always, that no one Director, though he may be a Proprietor of many Shares, shall have more than one vote at any meeting of the Directors, except the Chairman, who shall be chosen by and out of the said Directors, and who in case of a division of equal numbers, shall have the casting vote, although he may have given one vote before: And provided also, that such Directors shall from time to time be subject to the examination and control of the said Annual and Special Meetings of the said Proprietors as aforesaid, and shall pay due obedience to all By-Laws of the Company and to such orders and directions, in and about the premises, as they shall from time to time receive from the said Proprietors at such Annual or Special Meetings; such orders and directions not being contrary to any express directions or provisions in this Act contained: And provided also, that the act of any majority of a *Quorum* (or seven) of the Directors present at any meeting regularly held shall be deemed the act of the Directors.

Five Direc-
tors to be a
Quorum for
business.
Proviso.
Casting vote
of Chairman.

Proviso:
Directors sub-
jected to the
control of
Meetings.

Proviso:
Acts of a ma-
jority of a
Quorum to be
valid.

XXXV. Provided always, and be it enacted, That no person holding any office, place or employment, or being concerned or interested in any contract or contracts under the said Company, shall be capable of being chosen one of the Directors for managing the affairs of the said Company.

No officer of
the Company,
or Contractor
to be a Direc-
tor.

XXXVI. And be it enacted, That every such Annual Meeting shall have power to appoint not exceeding three Auditors to audit all accounts of money laid out and disbursed on account of the said undertaking, by the Treasurer, Receiver or Receivers, and other Officer and Officers to be by the said Directors appointed, or by any other person or persons whatsoever, employed by, or concerned for or under them, in and about the said undertaking; and to that end the said Auditors shall have power to adjourn themselves over from time to time, and from place to place, as shall be thought convenient by them: And the said Directors chosen under the authority of this Act, shall have power from time to time to make such call or calls of money from the Proprietors of the said Rail-road and other works, to defray the expense of, or to carry on the same, as they from time to time shall find wanting and necessary for these purposes:

Annual Meet-
ing may ap-
point three
Auditors to
audit all ac-
counts of mo-
ney laid out
and disbursed
on behalf of
the said under-
taking.
Power of the
Directors to
make calls.

Proviso.
Calls how to
be made.
Other powers
of the Direc-
tors.

Shareholders
bound to pay
calls.

Penalty for
neglect.

Forfeiture for
not paying
calls.

purposes: Provided, however, that no call do exceed the sum of five pounds, current money of this Province, for every share of fifty pounds: And provided also, that no calls be made but at the distance of at least one calendar month from each other: And such Directors shall have full power and authority to direct and manage all and every the affairs of the said Company as well in contracting for and purchasing lands, rights, and materials for the use of the said Company, as in employing, ordering and directing the work and workmen, and in placing and removing under-officers, clerks, servants and agents, and in making all contracts and bargains touching the said undertaking, so that no such purchase, bargain, or other matter, be done or transacted without the concurrence of a majority of a *quorum* of such Directors at a meeting of Directors regularly held, or in conformity with some express By-law of the Company: And the owner or owners of one or more shares in the said undertaking shall pay his, her or their shares and proportion of the monies to be called for as aforesaid, to such person or persons, and at such time and place as the said Directors shall from time to time appoint and direct, of which three weeks' notice at least shall be given in two newspapers as aforesaid, or in such other manner as the said Proprietors or their successors shall by any By-law direct or appoint; and if any person or persons shall neglect or refuse to pay his, her or their rateable or proportionable part or share of the said money, to be called for as aforesaid, at the time and place so appointed, he, she or they, neglecting or refusing shall forfeit a sum not exceeding the rate of five pounds for every one hundred pounds of his, her or their respective share or shares in the said undertaking: and in case such person or persons shall neglect to pay his, her or their rateable calls as aforesaid, for the space of two calendar months after the time appointed for the payment thereof as aforesaid, then he, she or they shall forfeit his, her and their respective share and shares in the said undertaking, and all the profit and benefit thereof; all which forfeitures shall go to the rest of the Proprietors of the said undertaking, their successors and assigns, for the benefit of the said Proprietors, in proportion to their respective interests.

No advantages
to be taken of
any forfeiture
of any shares
of the said un-
dertaking, un-
less declared
forfeited at
some General
Meeting.

XXXVII. Provided always, and be it enacted, That no advantage shall be taken of the forfeiture of any share or shares of the said undertaking, unless the same shall be declared to be forfeited at some Annual or Special Meeting of the said Company, assembled after such forfeiture shall be incurred; and every such forfeiture shall be an indemnification to and for every Proprietor so forfeiting against all action and actions, suits or prosecutions whatever, to be commenced or prosecuted for any breach of contract or other agreement between such Proprietor and the other Proprietors with regard to carrying on the said Rail-road or undertaking.

Company of
Proprietors
may remove
any person
chosen upon
such Board of
Directors;
and may elect
others in case
of death, re-
moval, &c.
And so of
Officers.
And to make
By-laws.

XXXVIII. And be it enacted, That the said Company shall always have power and authority at any General Meeting assembled as aforesaid, to remove any person or persons chosen upon such Board of Directors as aforesaid, and to elect others to be Directors in the room of those who shall die, resign or be removed, and to remove any other Officer or Officers under them, and to revoke, alter, amend or change any of the By-laws or Orders prescribed with regard to their proceedings amongst themselves (the method of calling General Meetings, and their time and place of assembling, and manner of voting, and of appointing Directors only, excepted,) and shall have power to make such new Rules, By-laws and Orders, for the good government of the said Company and their servants, agents and workmen, for the good and orderly making, maintaining and using the said Rail-road and all other works connected therewith,

or

or belonging thereto, or hereby authorized, and for the well governing of all persons whatsoever travelling upon or using the said Rail-road and other works, or transporting any goods, wares, merchandize or other commodities thereon; and by such By-laws to impose and inflict such fines or forfeitures upon the persons guilty of a breach of such By-laws, or Orders as to such General Meeting shall seem meet, not exceeding the sum of twenty-five pounds, current money of this Province, for every offence; such fines or forfeitures to be levied and recovered by such ways and means as are hereinafter mentioned; which said By-laws and Orders, being put into writing under the common seal of the said Company of Proprietors, shall be published at least twice in two newspapers as aforesaid, and affixed in the office of the said Company, and in all and every of the places where Tolls are to be gathered, and in like manner as often as any change or alteration shall be made to the same; and the said By-laws and Orders so made and published as aforesaid, shall be binding upon and observed by all parties, and shall be sufficient in any Court of law or equity to justify all persons who shall act under the same, and any copy of the said By-laws or any of them certified as correct by the President, and having the seal of the Corporation affixed to it, shall be deemed authentic, and shall be received as evidence of such By-laws, in any Court without further proof.

Penalties under By-laws limited.

By-laws to be in writing and published.

Certified copies to be evidence.

XXXIX. And be it enacted, That it shall and may be lawful to and for the several proprietors of the said Rail-road or undertaking to sell or dispose of his, her or their share or shares therein, subject to the rules and conditions herein mentioned; and every purchaser shall have a duplicate of the deed of bargain and sale and conveyance made unto him or her, and one part of such deed, duly executed by seller and purchaser, shall be delivered to the said Directors or their Clerk for the time being, to be filed and kept for the use of the said Company, and an entry thereof shall be made in a book or books to be kept by the said Clerk for that purpose, for which no more than one shilling and three pence shall be paid, and the said Clerk is hereby required to make such entry accordingly; and until such duplicate of such deed shall be so delivered to the said Directors or their Clerk, and filed and entered as above directed, such purchaser or purchasers shall have no part or share of the profits of the said undertaking, nor any interest for the said share or shares, paid unto him, her or them, nor any vote as a Proprietor or Proprietors: Provided always, that an affidavit by the President or any Officer of the said Company, cognizant of the fact, that the said Company is the sole owner of any vessel, shall be sufficient to warrant the registry of such vessel, under any Provincial Act, without any further allegation as to the Members of the Company; anything in any Act or Law to the contrary notwithstanding.

Proprietors of the said Rail-road may dispose of their shares, and how.

Transfer to be notified to the Company.

Fee.

Proviso as to the Registry of any vessel under a Provincial Act.

XL. And be it enacted, That the sale of the said shares shall be in the form following, varying the names and descriptions of the contracting parties, as the case may require:

Form of the transfer of shares.

" I, A. B, in consideration of the sum of
 " by C. D. of
 " transfer to the said C. D.
 " of the Stock of the *Montreal and Lachine Rail-road Company*, to hold to him the
 " said C. D. his heirs, executors, curators, administrators and assigns, subject to the
 " same rules and orders, and on the same conditions that I held the same immediately
 " before the execution hereof. And I, the said C. D. do hereby agree to accept of the
 " said

paid to me
 do hereby bargain, sell and
 share (or shares)

The form.

“ said (share or shares) subject to the
 “ same rules, orders and conditions. Witness our hands and seals, this
 “ day of in the year
 “ ”

Directors may
 appoint a
 Treasurer and
 Clerks, &c.

Duty of the
 Clerk.

XLI. And be it enacted, That it shall and may be lawful to and for the said Directors and they are hereby authorized from time to time to nominate and appoint a Treasurer or Treasurers, and a Clerk or Clerks to the said Company, taking such security for the due execution of their respective offices as the said Directors shall think proper; and such Clerk shall in a proper book or books enter and keep a true and perfect account of the names and places of abode of the several Proprietors of the said Rail-road and other works, and of the several persons who shall from time to time become owners and Proprietors of, or entitled to any share or shares therein, and of all the other acts, proceedings and transactions of the said Company and of the Directors for the time being, by virtue of and under the authority of this Act.

Company of
 Proprietors
 may establish
 Tolls for all
 goods, &c
 passing on the
 Rail-road, or
 carried in their
 vessels.

How Tolls
 may be recover-
 ed if not
 duly paid.

Seizure of
 goods, &c.

Tolls may be
 lowered and
 again raised.

Proviso
 against mono-
 poly.

XLII. And be it enacted, That it shall and may be lawful to and for the said Company from time to time, and at all times hereafter, to ask, demand, take and recover, to and for their own proper use and behoof, for all goods, wares, merchandize and commodities, of whatever description, transported upon the said Rail-road or in the said steamboats or vessels, such Tolls as they may deem expedient; which said Tolls shall be from time to time fixed and regulated by By-laws of the Company, and shall be paid to such person or persons, and at such place or places near to the said Rail-road, in such manner and under such regulations as the said Company shall direct and appoint; and in case of denial or neglect of payment of any such rates or dues, or any part thereof, on demand, to the person or persons appointed to receive the same as aforesaid, the said Company may sue for and recover the same in any Court having competent jurisdiction, or the person or persons to whom the said rates or dues ought to be paid, may, and he is, and they are hereby empowered to seize and detain such goods, wares, merchandize or other commodities, for or in respect whereof such rates or dues ought to be paid, and detain the same until payment thereof; and in the meantime the said goods, wares, merchandize or other commodities, shall be at the risk of the owner or owners thereof; and the said Company shall have full power, from time to time, at any General Meeting, to lower or reduce all or any of the said Tolls, and again to raise the same, as often as it shall be deemed necessary for the interests of the said undertaking: Provided always, that the same Tolls shall be payable at the same time and under the same circumstances upon all goods and upon all persons; so that no undue advantage, privilege or monopoly may be afforded to any person or class of persons by any By-law relating to the said Tolls.

Account of the
 profit of the
 said under-
 taking to be
 annually made
 up and balan-
 ced at certain
 periods.

XLIII. And in order to ascertain the amount of the clear profits of the said undertaking: Be it enacted, That the said Company, or the Directors for managing the affairs of the said Company, shall and they are hereby required to cause a true, exact and particular account to be kept and annually made up and balanced on the thirty-first day of December in each year, of the money collected and received by the said Company, or by the Directors or Treasurer of the said Company, or otherwise, for the use of the said Company, by virtue of this Act, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on their works, and of all other receipts and expenditure of the said Company or the said Directors; and at the

General

General Meetings of the Proprietors of the said undertaking, to be from time to time holden as aforesaid, a dividend shall be made out of the clear profits of the said undertaking, unless such Meetings shall declare otherwise; and such dividend shall be at and after the rate of so much per share upon the several shares held by the Proprietors, in the joint stock of the said Company, as such meeting or meetings shall think fit to appoint or determine: Provided always, that no dividend shall be made whereby the capital of the said Company shall be in any degree reduced or impaired, nor shall any dividend be paid in respect of any share, after a day appointed for payment of any call for money in respect thereof, until such call shall have been paid.

Dividends to be made from time to time at General Meetings.

Proviso: Capital not to be impaired.

XLIV. Provided always, and be it enacted, That whenever the said Company shall have declared for the then preceding year a dividend or dividends exceeding six pounds currency on each and every share in the said undertaking, the said Company shall and they are hereby directed and required to pay over, as a duty to Her Majesty, Her Heirs and Successors, recoverable as other duties are, one moiety of the net income from the said Rail-road accruing thereafter over and above the said six pounds per share, first payable to the said Proprietors: Provided always, that no such duty shall be payable until the dividends declared shall in the whole have amounted to ten *per cent per annum* on the paid up stock of the said Company from the time it was so paid up, this provision being made as an allowance to the Company for the loss of interest on the money expended before the work shall produce any income.

A Tax to be paid to the Government on all the net income above £6 per share per annum.

Proviso: Allowance for the time until the work shall produce income.

XLV. Provided always, and be it enacted, That in all cases where there shall be a fraction in the distance which goods, wares, merchandize, or other commodities or passengers shall be conveyed or transported on the said Rail-road or in the said steamboats or vessels, such fraction shall, in ascertaining the said rates, be deemed and considered as a whole mile, and that in all cases where there shall be the fraction of a ton in the weight of any such goods, wares, merchandize or other commodities, a proportion of the said rates shall be demanded and taken by the said Company of Proprietors, to the number of quarters of a ton contained therein; and in all cases where there shall be a fraction of a quarter of a ton such fraction shall be deemed and considered as a whole quarter of a ton.

Fractions in miles and fractions in weight of goods, in ascertained rates, &c., how regulated.

XLVI. Provided always, and be it enacted, That it shall and may be lawful to and for the said Company, from time to time at any General Meeting, to make such By-Law or By-Laws for ascertaining and fixing the price or sum or sums of money to be charged or taken for the carriage of any parcel not exceeding one hundred and twenty pounds weight as aforesaid, upon the said Rail-road, or any part thereof, or in the said steamboats or vessels, as to them shall seem fit and reasonable; and that the said Company shall from time to time print and stick up, or cause to be printed and stuck up in their office, and in all and every of the places where the Tolls are to be collected, in some conspicuous place there, a printed board or paper ascertaining all the Tolls payable under this Act; and particularising the price or sum or sums of money to be charged or taken for the carriage of such parcels not exceeding one hundred and twenty pounds weight as aforesaid.

Company of Proprietors may at a General Meeting make By-Laws for fixing the price for the carriage of parcels on the Rail-road.

Tables of Tolls to be publicly affixed.

XLVII. Provided always, and be it enacted, That the said Company shall at all times when thereunto required by Her Majesty's Deputy Post Master General, the Commander of the Forces, or any person having the superintendence or command of any

Provision as to the carriage of H. M.'s. Mail, Soldiers, Police Force, &c.

Proviso as to
starting of
Trains, &c.

Proviso : The
Legislature
may make fur-
ther provision.

any Police Force, carry Her Majesty's Mail, Her Majesty's Naval or Military Forces, or Militia, and all Artillery, ammunition, provisions, or other stores for their use, and all Policemen, Constables, and others, travelling on Her Majesty's Service, on their said Rail-road or in their said steamboats or vessels, on such terms and conditions and under such regulations as the said Company and the said Deputy Post Master General, the Commander of the Forces, or person in command of any Police Force, respectively, shall agree upon, or if they cannot agree, then on such terms and conditions and under such regulations as the Governor or person administering the Government shall in Council make ; Provided that by such regulations the Company shall not be required to start any Train or steamboat at any other time than their ordinary time of starting the same, but that they may be required to provide a separate carriage for the Mail and the person or persons in charge thereof: And provided also, that any further enactments which the Legislature of this Province may hereafter deem it expedient to make, with regard to the carriage of the said Mail or Her Majesty's Forces and other persons and articles as aforesaid, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph, or other service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act.

Company of
Proprietors to
divide the land
taken from the
lands adjoining,
if required.

XLVIII. And be it enacted, That the said Company shall, within six calendar months after any lands shall be taken for the use of the said Rail-road or undertaking, and if thereunto required by the proprietors of the adjoining lands respectively, but not otherwise, divide and separate, and keep constantly divided and separated, the lands so taken from the lands or grounds adjoining thereto, with a sufficient post and rail, hedge, ditch, bank, or other fence sufficient to keep off hogs, sheep and cattle, to be set and made on the lands or grounds which shall be purchased by, conveyed to, or vested in the said Company as aforesaid, and shall at their own costs and charges, from time to time, maintain, support and keep in sufficient repair the said posts, rails, hedges, ditches, trenches, banks, and other fences so set up and made as aforesaid.

The Company
to have the
Rail road mea-
sured and
miles marked.

XLIX. And be it enacted, That as soon as conveniently may be after the said Rail-road shall be completed, the said Company shall cause the same to be measured, and stones with proper inscriptions on the sides thereof denoting the distance to be erected and for ever after maintained, at the distance of every mile from each other.

Treasurer and
Receiver and
Collector to
give security.

L. And be it enacted, That the said Company shall and are hereby required and directed to take sufficient security, by one or more bond or bonds, in a sufficient penalty or penalties, from their Treasurer, Receiver and Collectors for the time being of the monies to be raised by virtue of this Act, for the faithful execution by such Treasurer, Receiver and Collectors of his and their office and offices, respectively.

Company may
compel the
persons sub-
scribing to pay
the amount of
their shares.

LI. And be it enacted, That the several persons who shall subscribe to advance any money for and towards making and maintaining the said Rail-road and other works connected therewith or hereby authorized, shall and they are hereby required to pay the sum or sums of money by them respectively subscribed, or such parts or portions thereof as shall from time to time be called for by the said Company, under and by virtue of the powers and directions of this Act, to such person or persons, and at such times and places as shall be directed by the said Company or the said Directors in manner before mentioned ; and in case any person or persons shall neglect or refuse to

pay

pay the same at the time and in the manner required for that purpose, it shall be lawful for the said Company to sue for and recover the same with costs in any Court of Law having competent jurisdiction.

LII. And be it enacted, That all fines and forfeitures imposed by this Act, or which shall be lawfully imposed by any By-Law, to be made in pursuance thereof, (of which By-Law, when produced, all Justices are hereby required to take notice,) the levying and recovering of which fines and forfeitures are not particularly herein directed, shall, upon proof of the offence before any one or more Justice or Justices of the Peace for the District, either by the confession of the party or parties, or by the oath or affirmation of any one credible witness (which oath or affirmation such Justice or Justices are hereby empowered and required to administer without fee or reward,) be levied by distress and sale of the offender's goods and chattels, by Warrant under the hand and seal, or hands and seals of such Justice or Justices; and all such fines, forfeitures or penalties by this Act imposed or authorized to be imposed, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Treasurer or Receiver of the monies to be raised by virtue of this Act, and shall be applied and disposed of for the use of the said Rail-road or undertaking, and the overplus of the money raised by such distress and sale, after deducting the penalty and the expenses of the levying and recovering thereof, shall be rendered to the owner of the goods so distrained and sold; and for want of sufficient goods and chattels whereof to levy the said penalty and expenses, the offender shall be sent to the Common Gaol for the District of Montreal, there to remain without bail or mainprize for such term not exceeding one month as such Justice or Justices shall think proper, unless such penalty or forfeiture, and all expenses attending the same shall be sooner paid and satisfied.

Forfeitures under this Act how to be recovered and applied, when not otherwise provided for.

Levy by distress and sale of goods and chattels.

Imprisonment for want of sufficient chattels.

LIII. And be it enacted, That if any person or persons shall think himself, herself or themselves aggrieved by any thing done by any Justice or Justices of the Peace in pursuance of this Act, every such person or persons may, within four calendar months after the doing thereof, appeal to the Justices of the Peace at the General Quarter or General Sessions, to be holden in and for the District.

Persons aggrieved may appeal to the General Sessions.

LIV. And be it enacted, That if any action or suit shall be brought or commenced against any person or persons for any thing done or to be done in pursuance of this Act, or in the execution of the powers and authorities, or of the orders and directions hereinbefore given or granted, every such action or suit shall be brought or commenced within six calendar months, next after the fact committed; or in case there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards; and the Defendant or Defendants in such action or suit shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be held thereupon, and that the same was done in pursuance and by the authority of this Act, and if it shall appear to have been so done, or if any action or suit shall be brought after the time so limited for bringing the same, or if the Plaintiff or Plaintiffs shall be non-suit, or discontinue his, her or their action or suit after the Defendant or Defendants shall have appeared, or if judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have full costs, and shall have such remedy for the same as any Defendant or Defendants hath or have for costs of suit in other cases by law.

Limitation of actions for things done in pursuance of this Act.

General issue.

Costs to Defendant if the Plaintiff fail.

Any contra-
vention of this
Act not other-
wise punish-
able, to be a
misdemeanor.

LV. And be it enacted, That any contravention of this Act by the said Company or by any other party, for which no punishment or penalty is herein provided shall be a misdemeanor, and shall be punishable accordingly; but such punishment shall not exempt the said Company (if they be the offending party) from the forfeiture of this Act and the privileges hereby conferred on them, if by the provisions thereof or by law the same be forfeited by such contravention.

Her Majesty
may assume
the Rail-road,
on certain con-
ditions.

LVI. And be it enacted, That Her Majesty, Her Heirs and Successors, may at any time before or after the said Rail-road is completed assume the possession and property thereof, and of all the property which the said Company is hereby empowered to hold and shall then have, and of all the rights, privileges and advantages vested by this Act in the said Company, (all which shall after such assumption be vested in Her Majesty, Her Heirs and Successors,) on giving to the said Company three months' notice of the intention to assume the same, and on paying to the said Company, within three months of the expiration of such notice, the whole amount of their Capital Stock then paid up and expended, with interest on the paid up Capital, from the time of the paying up of the same until the time of the opening of the said Rail-road; And provided also, that it shall not be deemed an infringement of the privileges intended to be granted by this Act, that the Legislature should vest a like power of assuming the said Rail-road and the property and privileges of the Company, on like terms and conditions, in any incorporated Company which shall before such assumption have completed, or have actually expended a sum of not less than one hundred thousand pounds, current money of this Province, towards the completion of a Rail-road under the authority of an Act of the Legislature, from Lachine aforesaid in the direction of Prescott and Kingston, in that portion of the Province formerly UpperCanada.

Proviso :
Legislature
may grant a
like privilege
to another
Company
having per-
formed certain
conditions.

Map and Book
of reference to
be deposited
and the Rail-
road to be com-
pleted within
certain periods,
or this Act to
be void.

LVII. And be it enacted, That the said Company, to entitle themselves to the benefits and advantages to them granted by this Act, shall and they are hereby required to make and deposit the map or plan and book of reference mentioned in the fourth Section of this Act within six months after the passing thereof, and to make and complete the said Rail-road from the City of Montreal to Lachine, in manner aforesaid, within three years from the passing of this Act; and if the said map or plan and book of reference be not so made and deposited within the said six months, or if the said Rail-road shall not be so made and completed within the said period so as to be used by the public as aforesaid, then and in either case this Act and every matter and thing therein contained, shall cease and be utterly null and void.

Company an-
nually to sub-
mit to the Le-
gislation de-
tailed ac-
counts.

Further provi-
sion may be
made touching
such accounts.

LVIII. And be it enacted, That the said Company shall annually submit to the three Branches of the Legislature, within the first fifteen days after the opening of each Session of the Provincial Parliament, a detailed and particular account, attested upon oath, of the monies by them received and expended under and by virtue of this Act, with a classified statement of the amount of tonnage and of passengers that have been conveyed along the said Rail-road, or in their steamboats or vessels; And no further provision which the Legislature may hereafter make with regard to the form or details of such account, or the mode of attesting or rendering the same, shall be deemed an infringement of the privileges hereby granted to the Company.

LIX. And be it enacted, That nothing herein contained shall affect or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

Saving of Her Majesty's rights, and of all other persons, &c.

LX. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace and others, without being specially pleaded.

Public Act.

LXI. And be it enacted, That nothing herein contained shall be construed to exempt the Rail-way by this Act authorized to be made, from the provisions of any general Act relating to Rail-ways which may be passed during the present or any future Session of Parliament.

Company to be exempted from the operation of any general Rail-road-law.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXXXIII.

An Act to incorporate certain persons under the name of *the Etobicoke and Mono Sixth Line Road Company*.

[9th June, 1846.]

WHEREAS the inhabitants of the Townships of Albion, the Gore of Toronto, Chinguacousey, Mono and Etobicoke, and the Townships in rear thereof, suffer great inconvenience in bringing the produce of their farms to market, in consequence of the badness of the roads over which they have to travel; And whereas it would tend much to improve the country and to confer great benefits on the inhabitants of those Townships and of that part of the Home District which lies north-west and east thereof, if the road now travelled and known as the Sixth Line Road, commencing at Dundas Street, in the Township of Etobicoke, thence northerly to Mono Mills in the Township of Mono, thence to Lake Huron, were planked or macadamized; And whereas William Gamble and others have petitioned the Legislature to be by Law incorporated for the purpose of effecting the said improvements by means of a Joint Capital Stock: Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That William Gamble, Edward Musson, Thomas Bagwell, W. P. Howland, Thomas Fisher, Thomas B. Philipps and Henry Weir, or any five of them, together with all such other persons as shall become Stockholders in such Joint Capital or Stock as hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic, in fact, by the name of *The Etobicoke and Mono Sixth Line Road Company*, and by such name they and their successors shall and may have continued succession, and by such name shall be capable of contending and being contended with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever, and that they and their successors may and shall have a common seal, and may change and alter the same at their will and pleasure, and also that they and their successors by the said name of *The Etobicoke and Mono Sixth Line Road Company*, shall be in law capable of purchasing, having and holding to them and their successors, any estate, real, personal or mixed, and which may be necessary for the use of the said Company, and of letting, conveying or otherwise parting therewith for the benefit and on account of the said Company from time to time

Preamble.

Certain persons incorporated.

Corporate name and powers.

Common Seal.

May hold real estate, &c.

May make the
road, erect
Toll Gates, &c.

Proviso.
When Tolls
may be taken.

Amount of
Capital Stock
£30,000.
In 12,000
shares, of
£2 10s. each.
Transfer of
shares.

Proviso.

Books of Sub-
scription to be
opened at the
Etobicoke
Post Office
and other
places.

To remain
open for thirty
days.

Limit of sub-
scription during
that time.

Subscribers to
pay a portion
of one-third
upon their
shares at time
of subscribing.

Residue pay-
able by instal-
ments.

Proviso.

Penalty on
Stockholders
refusing to

to time as they shall deem necessary or expedient; and shall have full power and authority to macadamize or plank the road or roads mentioned and described in the Preamble to this Act, to erect Toll Gates, and to take Tolls thereon in the manner hereinafter mentioned, when the same shall be completed; and may for the purposes of this Act either use the road now existing between the places aforesaid, or may change or alter the direction or place of the said road or any part thereof, as they shall find most expedient: Provided always, and it is hereby enacted and declared, that so soon as one mile of the said road shall have been completed, it shall and may be lawful for the Directors of the said Company to put up and erect a Toll Gate thereon, and collect such Tolls as the Directors may think expedient to be levied, and taken of and from persons travelling along the said Road.

II. And be it enacted, That the whole Capital Stock (exclusive of any real estate which the said Company may have or hold by virtue of this Act,) shall not exceed in value the sum of thirty thousand pounds of lawful money of this Province, which said Capital Stock shall be composed of twelve thousand shares of the value of two pounds ten shillings each; and that the said shares of the said Capital Stock shall be transferable, and may be from time to time transferred by the respective persons so subscribing or holding the same to other person or persons: Provided always, that such transfer be entered or registered in a book or books to be kept for that purpose by the said Company.

III. And be it enacted, That within thirty days after the passing of this Act, Books of Subscription shall be opened at the Etobicoke Post Office, Mono Mills, and Woodil's Corner, and at such other places by such person or persons, and under such regulations within the meaning of this Act as the said Petitioners or a majority of them shall by writing direct.

IV. And be it enacted, That the said Books of Subscription shall remain open for subscription for thirty days, during which time no person subscribing shall so subscribe for more than twenty-five shares, but if after the expiration of the said thirty days any Stock should remain not taken up, then it shall be lawful for the said Subscribers or any of them, or any other person or persons to subscribe for any greater or less number of shares, so long as any of the said Stock may remain unsubscribed for.

V. And be it enacted, That all and every the Subscribers for the said Stock or any part thereof, shall, at the time of subscribing, pay a portion of one-third upon the Capital Stock of the whole number of Shares, for which they, or any of them respectively, may subscribe; and that such proportion so paid and deposited at the time of subscription shall be at the disposal of the Directors hereinafter mentioned, to and for the purposes of this Act in manner as hereinafter is directed, and that the residue of the sum or shares of the Subscribers and Stockholders shall be payable by instalments, at such times and in such proportion as a majority of the Directors to be chosen as hereinafter provided, shall agree upon: Provided, that no such instalment shall exceed ten per cent. of the Capital Stock, or become payable in less than thirty days after public notice in one or more of the public newspapers published at Toronto.

VI. And be it enacted, That if any Stockholder as aforesaid, shall refuse or neglect to pay at the time required, any such instalment or instalments as shall be lawfully required

required by the Directors, as due upon any share or shares, then such Stockholder so refusing or neglecting shall forfeit such share or shares as aforesaid, with the amount previously paid thereon, and the said share or shares may be sold by the said Directors, and the sum so arising therefrom, together with the amount previously paid thereon, shall be accounted for and divided in like manner as other monies of the said Company: Provided also, that nothing in this Act shall prevent any Stockholder from paying up the amount he subscribes for at any time to the Directors, and the same shall be allowed to him by the said Company.

pay instal-
ments.

Provided.

VII. And be it enacted, That as soon as five thousand pounds of the Capital Stock shall have been subscribed, it shall and may be lawful for the Subscribers or the majority of them, upon thirty days' notice, published in one or more of the Toronto newspapers, to call a public meeting at Montgomery's Inn, Etobicoke, for the purpose of proceeding to the election of Directors as hereinafter mentioned, and the persons then and there chosen shall be capable of serving until the first day of January, one thousand eight hundred and forty-seven, and the Directors so chosen shall commence the business of the said Company, and proceed therein until the first subsequent election of Annual Directors as hereinafter mentioned.

Public meet-
ing to be called
at Etobicoke
for choosing
Directors,
when £5,000
is subscribed.

Period of
service.

VIII. And be it enacted, That the stock, property, affairs and concerns of the said Corporation shall be managed and conducted by five Directors, one of whom to be the President, who shall hold his office for one year; which Directors shall be Stockholders and shall be inhabitants of the Home District, and shall be elected on the first Monday in December in every year, at such time of the day and at such place as the majority of the Directors for the time being, after thirty days' public notice, shall appoint: Provided nevertheless, that the first Board of Directors, to be chosen by the subscribers as aforesaid, shall continue in office until the first day of January, one thousand eight hundred and forty-seven, as in the last section provided, and no longer, unless re-elected.

Directors to
manage affairs
of Corporation.
Qualification
of Directors.

Provided.

IX. And be it enacted, That the election of Directors shall be held and made by such Stockholders of the said Company as shall attend at such place as shall be appointed by six Directors, after giving thirty days' notice by advertisement in one or more of the Toronto papers for that purpose, in their own proper persons or by proxy, and shall be determined by ballot, such ballot to be regulated and calculated by the number of votes allowed to such Stockholders according to the number of shares held by them respectively as follows, that is to say: One vote for one share, three votes for five shares, five votes for ten shares, seven votes for fifteen shares, ten votes for twenty shares: Provided always, that the Stockholders so voting shall be possessed of the share or shares in respect of which they shall respectively vote at least three months before the time of election; and that no person, copartnership or body politic shall be entitled to more than one vote for each share at any such election, nor at the determination of any other matter or thing concerning the said Company or its affairs, which may by the provisions of this Act be submitted to the judgment and decision of the Stockholders generally; Provided also that the choice of the Scrutineers hereinafter mentioned and of the President be had as hereinafter expressly directed.

Directors to be
elected by
Stockholders.

Ratio of votes
to shares.

Provided.

Provided.

X. And be it enacted, That the Directors to be chosen shall be Stockholders in the said Company, and shall hold to their own use ten shares at least, and that all and every

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Stockholders
of ten shares at
least.

May make the
road, erect
Toll Gates, &c.

Proviso.
When Tolls
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V. And be it enacted, That all and every the Subscribers for the said Stock or any part thereof, shall, at the time of subscribing, pay a portion of one-third upon the Capital Stock of the whole number of Shares, for which they, or any of them respectively, may subscribe; and that such proportion so paid and deposited at the time of subscription shall be at the disposal of the Directors hereinafter mentioned, to and for the purposes of this Act in manner as hereinafter is directed, and that the residue of the sum or shares of the Subscribers and Stockholders shall be payable by instalments, at such times and in such proportion as a majority of the Directors to be chosen as hereinafter provided, shall agree upon: Provided, that no such instalment shall exceed ten per cent. of the Capital Stock, or become payable in less than thirty days after public notice in one or more of the public newspapers published at Toronto.

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Directors to
manage affairs
of Corporation.
Qualification
of Directors.

Provide.

IX. And be it enacted, That the election of Directors shall be held and made by such Stockholders of the said Company as shall attend at such place as shall be appointed by six Directors, after giving thirty days' notice by advertisement in one or more of the Toronto papers for that purpose, in their own proper persons or by proxy, and shall be determined by ballot, such ballot to be regulated and calculated by the number of votes allowed to such Stockholders according to the number of shares held by them respectively as follows, that is to say: One vote for one share, three votes for five shares, five votes for ten shares, seven votes for fifteen shares, ten votes for twenty shares: Provided always, that the Stockholders so voting shall be possessed of the share or shares in respect of which they shall respectively vote at least three months before the time of election; and that no person, copartnership or body politic shall be entitled to more than one vote for each share at any such election, nor at the determination of any other matter or thing concerning the said Company or its affairs, which may by the provisions of this Act be submitted to the judgment and decision of the Stockholders generally; Provided also that the choice of the Scrutineers hereinafter mentioned and of the President be had as hereinafter expressly directed.

Directors to be
elected by
Stockholders.

Ratio of votes
to shares.

Provide.

Provide.

X. And be it enacted, That the Directors to be chosen shall be Stockholders in the said Company, and shall hold to their own use ten shares at least, and that all and every

Directors to be
Stockholders
of ten shares at
least.

every copartnership and copartners, body and bodies politic or corporate, holding any share or shares of the stock of the Company, shall each of them vote only as an individual Stockholder.

Persons having the greatest number of votes according to Shares held by the voters to be Directors.

XI. And be it enacted, That of the persons as aforesaid nominated and ballotted for in the manner as aforesaid, those shall be deemed elected who shall have the greatest number of votes according to the shares held by the voters respectively, as hereinbefore prescribed at each and every such election of Directors; and at each and every such election on the first day of May in each and every year as aforesaid, after the ballot shall have been kept open from eleven of the clock in the forenoon to two of the clock in the afternoon, the persons having the majority of the votes in manner aforesaid shall, so soon thereafter as convenient on the same day, be declared the Directors chosen for the ensuing year by any two or more Scrutineers who shall have been previously nominated by the Stockholders for the purpose of nomination and report of such ballot; Provided nevertheless, that the Stockholders present at the place of ballot shall in the nomination of Scrutineers vote *per capita*, and not by shares.

Proviso.

Directors to elect President.

XII. And be it enacted, That the said Directors in the same day and place wherein they shall have been so chosen and declared Directors, shall, after all other persons have retired, choose by plurality of voices one of their number to be President, in which choice the Directors shall vote *per capita*, and not by shares.

In case of vacancy among Directors, the other Directors to elect a person to supply the vacancy.

XIII. And be it enacted, That in case of vacancy among the Directors, by death or absence for more than two months from the sittings of the said Board, the remaining Directors shall elect from among the Shareholders one or more persons to fill the said vacancy or vacancies, so as to complete the full number of five Directors provided for by the eighth clause of this Act, who shall be capable of serving until the next annual election.

All questions to be decided by majority of votes of Directors.

XIV. And be it enacted, That all questions submitted to or coming before the Board of Directors concerning the affairs of the said Company shall be decided by the majority of voices.

Directors to make rules and regulations for certain purposes.

XV. And be it enacted, That the Directors for the time being, or the majority of them, shall have power to make and subscribe such Rules and Regulations, and the same to alter and amend as to them shall appear needful, just and proper, touching the management and disposition of the stock, property, estate and effects of the said Corporation, and touching the duties and conduct of the clerks and servants employed by the said Company, and shall have power to make and subscribe in the name of the said Company all contracts for labour, work, materials, and all matters concerning the construction of the said road, and, after the same be completed, concerning the tolls of the said road, and other matters and things concerning as well the construction of the said road, its charges, tolls, profits, losses, dividends, and revenue whatsoever, such Rules and Regulations not being contrary to this Act nor to the Laws of this Province.

And may make contracts, &c.

President and Directors to establish rates of Toll.

XVI. And be it enacted, That it shall and may be lawful for the President and Directors of the said Company from time to time to order and establish the rates of toll payable by persons travelling upon the said road, and the said Company shall annually, if

if required, exhibit an account to either or every Branch of the Legislature of the Province, of the tolls so regulated and the amount thereof received, and of the sums expended in keeping the said road in repair, and also such accounts authenticated in such manner and form as the authority so requiring the same may deem satisfactory.

And submit accounts to the Legislature.

XVII. And be it enacted, That whenever the said tolls shall in the annual receipts exceed in amount a sum sufficient to defray the expenses of maintaining and repairing the said road, and to afford an annual income to the said Company of six per cent. on the capital actually expended in the construction of the said road, from the commencement of its being travelled as aforesaid, then and in such case the increasing surplus revenue of the said tolls shall be laid out and expended by the Directors in continuing the said road to the point of termination before alluded to.

When receipts exceed an amount sufficient to defray expenses of road, surplus revenue to be applied to a sinking fund.

XVIII. And be it enacted, That if any person or persons shall cut, break down or destroy in any way any of the Gates or Toll-houses to be erected by virtue of this Act, every such person so offending and being lawfully convicted, shall be deemed guilty of a misdemeanor, and be punished by fine or imprisonment; and if any person or persons shall remove any earth, stone or timber on the said road, to the damage of the same, or shall forcibly pass or attempt to pass by force any of the Gates without having first paid the legal toll at such Gate, such person or persons shall pay all damages by them committed, and shall forfeit and pay a fine not exceeding five pounds, nor less than five shillings, currency, to be recovered before any Justice of the Peace for the Home District.

Penalty on persons destroying, &c. Toll Gates, &c.

XIX. And be it enacted, That the fines and forfeitures authorized to be imposed by this Act, shall and may be levied and collected by distress and sale of the offender's goods and chattels under the authority of any warrant or warrants for that purpose to be issued by any one of Her Majesty's Justices of the Peace for the Home District, who is hereby authorized and empowered to grant the same.

Fines to be levied by distress and sale.

XX. And be it enacted, that if any person or persons shall after proceeding on the said road with any carriage or animals liable to pay toll, turn out of the same into any other road, and shall enter the said road beyond any of the said gate or gates without paying toll, or shall in any other manner drive forcibly through or otherwise, whereby such payment shall be evaded, such person or persons shall for every such offence forfeit and pay the sum of five shillings, which said sum shall be expended on the said road, or towards the discharging of any debt or other incumbrances thereon; and any one Justice of the Peace for the Home District shall on conviction of such offender, fine such person in the said penalty, and from his judgment there shall be no appeal.

Penalty on persons turning out of road, to enter it by another road so as to evade payment of Toll.

XXI. And be it enacted, That if any person or persons occupying or possessing any enclosed lands near any Toll-houses or Toll-gates which shall be erected in pursuance of this Act, shall knowingly permit or suffer any person or persons to pass through such lands, or through any gate, passage or way thereon, with any carriage, horse, mare, gelding, or other animal liable to the payment of toll, whereby such payment shall be avoided, every person or persons so offending and also the person riding or driving the animal or animals or carriage whereon such payment is avoided, being thereof convicted, shall for every such offence severally forfeit and pay any sum not exceeding two pounds ten shillings, which shall be laid out in improving such road: Provided always, that this section shall not apply to any proprietor or tenant owning or occupying lands adjacent

Penalty on persons occupying lands near Toll-houses, permitting persons to pass through such lands so as to evade Toll.

adjacent to the said gate, and extending on both sides of it, or his servants passing on either side of the gate through his own premises.

Her Majesty's
Mail, Officers
and Soldiers
on duty, &c.,
to pass free of
Toll.

XXII. And be it enacted, That Her Majesty's mail and persons, animals and carriages employed in the conveyance thereof, Her Majesty's officers and soldiers being in proper staff or regimental, or military uniform, dress or undress, and their horses (but not when passing in a hired or private vehicle) and all carriages and horses belonging to Her Majesty, or employed in Her service, when conveying persons in such service or returning therefrom, and all recruits marching by route, and all persons, animals and carriages attending funerals on any day in the week, or going to or returning from divine service on the Lord's day, shall pass toll-free through any Turnpike and Toll-gate to be erected under the authority of this Act.

Legislature
may purchase
the said road,
on certain con-
ditions.

XXIII. And be it enacted, That the Legislature of this Province may at any time whatever, purchase the said entire estate, property and use of the said road from the said Company, paying to the said Company the Capital so as aforesaid actually expended, together with fifteen per cent. advance thereupon, to the credit of which payment all revenue exceeding ten per cent. upon the *bonâ fidâ* expenditure, and over and above the expense of maintaining and repairing the said road, shall be charged and taken, and it is also hereby provided and declared, that if any deficiencies of the said ten per cent. annual profits should occur at any time, such deficiencies shall be also chargeable against the increasing revenue of the subsequent years, so that the Company may fairly and actually receive ten per cent. profit on their said *bonâ fidâ* expenditure for the whole time they shall enjoy the estate, rights and privileges acquired under the authority of this Act.

Company may
purchase real
estate to com-
plete the road.

XXIV. And be it enacted, That the said Company shall have full power and authority, for the purpose of forming and completing the road, to purchase and hold in their corporate capacity such real estate as may be necessary for all the purposes of the said road, and of this Act.

Directors may
agree with
owners of
land.

XXV. And be it enacted, That the Directors of the said Company for the time being shall have full power to contract, compound, compromise and agree with the owners and occupiers of land through or upon which the said road may most advantageously pass and terminate.

In case of dis-
agreement,
Arbitrators to
be appointed.

XXVI. And be it enacted, That if in the making of such contract, composition, compromise or agreement, any obstacle should arise between the parties thereto, touching the value of the portion of the land to be bought for the purposes aforesaid, then and in such case it shall and may be lawful for the Directors for the time being from time to time, as they or a majority of them may think fit, to appoint one or more person or persons as Arbitrator or Arbitrators on the part of the said Company, and also for the party or parties disagreeing as to the value as aforesaid, to appoint one or one more person or persons, being an equal number with those chosen by the said Directors as Arbitrator or Arbitrators on his, her or their part; and that the persons so chosen on both sides shall, (having met for that purpose,) choose by ballot one other indifferent person, and the whole number of persons so chosen shall be the Arbitrators between the parties disagreeing; and the said Arbitrators shall be sworn by a Justice of the Peace, justly, impartially and equally as far as in them lies, and to the best of their judgment, to determine the matter to be to them referred.

XVII.

XXVII. And be it enacted, That if after eight days' notice in writing given to the party so disagreeing as to the value aforesaid, such party will not nominate or appoint an Arbitrator or Arbitrators as aforesaid, on his part, it shall and may be lawful for the Directors to add to their first nomination as many others (not being Stockholders of the said Company) as and for the Arbitrators of the party so refusing to nominate for himself, and such added Arbitrators shall have the same power as if named by the party himself, and shall meet and ballot for the additional Arbitrator.

Proceedings to be adopted when party disagreeing shall refuse to appoint Arbitrator.

XXVIII. And be it enacted, That the Board of Arbitrators so constituted shall fix a convenient day for hearing the respective parties, and shall give eight days' notice at least of the day and place; and having heard the parties or otherwise examined into the merits of the matter so brought before them, the said Arbitrators or a majority of them shall make their award and arbitrament thereupon in writing, which award or arbitrament shall be final as to the value so in dispute as aforesaid.

Board of Arbitrators to fix a day for hearing parties.

XXIX. And be it enacted, That if the party so disagreeing refuse to accept the value of land so ascertained by the Arbitrators as aforesaid, till the end of the second Term in Her Majesty's Court of Queen's Bench in Canada West next after making the award and tender of the value thereby ascertained, then and in such case the Directors for the time being shall be at liberty, and shall have full power to occupy the piece of land so valued by the said Arbitrators, and to macadamize or plank it in the same manner as other portions of the said road: Provided that the value awarded by such Arbitrators shall be paid within thirty days after such award: Provided also, that nothing in this Act contained shall be construed to authorize the said Company to take or enter upon any land or real estate of any kind belonging to Her Majesty, Her Heirs or Successors, or vested in or held in trust by the Principal Officers of Her Majesty's Ordinance, or any public body, person or party in trust for the use or service of Her Majesty, Her Heirs or Successors, whether such land or real estate be held in fee simple or for any less estate, during the continuance of such estate; unless the entering upon or taking of such lands or real estate be authorized by the Governor in Council, or by the Commander in Chief of Her Majesty's Forces in this Province.

In case of disagreement, after a certain period Directors may occupy piece of land valued by Arbitrators.

Proviso.

Proviso as to lands of the Crown or held in trust for the Crown.

XXX. And be it enacted, That in any action of ejectment or other action, real, personal or mixed, for or on account of such occupation by the said Company, their servants or agents, or other person or persons using the said road, the said award may be pleaded in bar to such action at any time after the said two terms of the said Court of Queen's Bench, notwithstanding any defect in form or substance in the said award: Provided always, and it is hereby enacted and declared, That it shall and may be lawful to and for the party or parties interested in the land mentioned in the award, or their Agent by the Counsel, at any time within the two next terms as aforesaid, after the same hath been made, and the amount of the value awarded tendered, to move the said Court of Queen's Bench to set aside such award for corruption or any other matter or thing for which awards are now subject to be impugned by law; Provided also, that if the first award be so set aside by the Court of Queen's Bench, the matter in difference may again be submitted to other Arbitrators, and so on till a satisfactory award be made between the parties.

Award may be pleaded in bar to any action arising from occupation of land.

Proviso:

Award may be set aside for cause.

Proviso, new award to be had in such case.

XXXI. And be it enacted, That in case it should at any time happen that an election of Directors should not be made on the day when pursuant to this Act it ought to have been

Corporation not to be dissolved if elected.

tion do not take place on day appointed by this Act, but the same may be had on some other day.

Directors to make annual dividends of profits and to render accounts.

been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any other day to hold and make an election in such manner as shall have been regulated by the Rules of the said Corporation to be made for that purpose, such Rules not being contrary to the provisions of this Act.

XXXII. And be it enacted, That it shall be the duty of the Directors to make annual dividends of so much of the profits of the said Company, as to them or a majority of them shall appear advisable, and once in every three years (and oftener if required by a majority of the votes of the Stockholders at a general meeting to be called for that purpose,) an exact and particular statement shall be rendered of the state of their affairs debts, credits, profits and losses, and such triennial statements shall appear in the books of the Company, and be open to the perusal of any Stockholder upon his reasonable request.

When individuals wish to improve any portion of road, the value of work and materials may be estimated, and paid in shares of stock.

XXXIII. And be it enacted, That in case any individual or individuals shall be desirous of improving, or shall have improved any portion of the said line of road, or shall be desirous of taking Stock in the same, by giving labour or any material applicable for the purpose of the said line of road, the same to be paid for in shares of the Capital Stock of the said Company, then it shall be the duty of the Directors to appoint persons to estimate the value of such work or materials, and in case any obstacle should arise between the parties, touching the value of such labour or material for the purposes aforesaid, then in such case it shall and may be lawful for Arbitrators appointed as in the twenty-sixth section of this Act to decide upon the same, and upon their reporting to the Directors of the said Company the amount of such valuation, the individual or individuals who have furnished labour or materials as aforesaid, shall be entitled to have transferred to them in the books of the said Company as many shares of the Capital Stock as will cover the amount reported of such estimated value of such labour or materials as they may have performed or furnished on the said line of road.

Directors to keep road in repair and liable for neglect.

XXXIV. And be it enacted, That it shall be the duty of the said Directors to keep the said road in good repair, and in all cases when any accident or injury occurs to individuals or property from the neglect of the said Directors or their servants, the said Company shall be liable for the full amount of damage sustained, to be recovered summarily on the complaint of any party on proof by not less than two witnesses other than the party aggrieved, before not less than three Justices of the Peace, to be recovered accordingly by the nineteenth section of this Act.

Saving of the Rights of the Crown and others not expressly affected.

XXXV. And be it enacted, That nothing herein contained shall affect or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

Public Act.

XXXVI And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially noticed by all Judges and Justices of the Peace, and other persons without being specially pleaded.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXXXIV.

An Act to incorporate *The Huntingdon Plank-road Company.*

[23rd May, 1846.]

WHEREAS certain inhabitants of the Townships of Godmanchester and Hinchinbrooke in that part of the Province of Canada heretofore Lower Canada, have petitioned for the passing of a law incorporating a Joint Stock Company for the purpose of constructing a Plank or Macadamized Road from the Village of Huntingdon in the Township of Godmanchester, to the upper *terminus* of the Beauharnois Canal; and whereas it is expedient to incorporate a Joint Stock Company for the purpose aforesaid, with the powers and under the provisions hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that Robert B. Somerville, William Bowen, Benjamin Douglas, John Somerville, James Reid and Francis H. Sheriff, with all such other persons as shall become Stockholders in the Joint Stock or Capital, hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic in fact, by and under the name and style of *The Huntingdon Plank-road Company*, and by that name they and their successors shall and may have continued succession, and by that name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and concerns whatsoever: and they and their successors may and shall have a Common Seal, and may change and alter the same at their will and pleasure, and also that they and their successors by the same name of *The Huntingdon Plank-road Company*, shall be by law capable of purchasing, having and holding to them and their successors, any estate, real or personal, or mixed, to and for the use of the said Company, and of letting, conveying, and otherwise departing therewith for the benefit and on account of the said Company, from time to time as they shall deem necessary and convenient: Provided always, nevertheless, that the real estate to be held by the said Company shall be only such as shall be required to be held by them for the purpose of making, using and preserving the Plank or Macadamized Road hereinafter mentioned, and for objects immediately connected therewith.

Preamble.

Certain persons incorporated as *The Huntingdon Plank-road Company*.

Corporate powers.

Proviso Real estate limited.

II.

Their powers
to construct
the said road.

II. And be it enacted, That the said Company and their agents or servants shall have full power under this Act, to lay out, construct, make and finish a Plank or Macadamized Road at their own costs and charges on and over that part of the country in the Townships of Godmanchester and Hinchinbrooke, and in the Parish of *St. Timothée de Beauharnois*, that is to say, from the village of Huntingdon in the Township of Godmanchester, through the said Township of Godmanchester, and that portion of the Parish of *St. Timothée de Beauharnois* commonly called Catharinestown, to the upper terminus of the Beauharnois Canal in the said Parish of *St. Timothée de Beauharnois*.

Company may
contract, &c.,
with land
owners.

In case of
disagreement,
recourse to be
had to arbitra-
tion.

Third Arbitra-
tor.

III. And be it enacted, That the said Company are hereby empowered to contract, compound, compromise and agree with the owners and occupiers of any lands upon which they may determine to construct the said Plank or Macadamized Road, either by purchase of so much of the said land and privileges as they shall require for the purposes of the said Company, or for the damages which he, she or they shall and may be entitled to receive of the said Company, in consequence of the said intended road being made and constructed in and upon his, her or their respective lands; and in case of any disagreement between the said Company and the owner or owners, occupier or occupiers as aforesaid, it shall and may be lawful, from time to time, for each owner and occupier so disagreeing with the said Company, either upon the value of the lands and tenements or private privileges proposed to be purchased, or upon the amount of damages to be paid to them as aforesaid, to nominate and appoint one or more indifferent person or persons, and for the said Company to nominate an equal number of indifferent persons, who, together with one other person to be elected by ballot by the persons so named, shall be Arbitrators, to award, determine, and adjudge, and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same.

Arbitrators
how appointed
in case the
party shall re-
fuse or neglect
to appoint.

IV. And be it enacted, That if after eight days' notice in writing, given to the party so disagreeing as to the value aforesaid, such party shall not nominate or appoint an Arbitrator or Arbitrators as aforesaid on his part, then and in such case any Circuit Judge for the District of Montreal, shall and may nominate and appoint one or more Arbitrator or Arbitrators on his or their behalf, with the same powers and authority as if appointed by the party or parties so refusing or neglecting to appoint an Arbitrator or Arbitrators in his or their behalf, and to meet and ballot for the additional Arbitrator or Umpire.

Duty of Arbi-
trators in
making their
award.

V. And be it enacted, That the Arbitrators so appointed shall fix a convenient day for hearing the respective parties, and shall give eight days' notice at least of the day and place, and having heard the parties, or otherwise examined into the merits of the matters so brought before them, the said Arbitrators, or a majority of them, shall make their award thereupon in writing, which award shall be final as to the value so in dispute as aforesaid.

At the end of
two terms af-
ter tender of
award, Direc-
tors may take
possession of
land.

VI. And be it enacted, That if the party so disagreeing refuse to accept the value of land or damage so awarded by the Arbitrators as aforesaid, till the end of the second term of Her Majesty's Court of Queen's Bench for the District of Montreal, next after the making of the award and tender of the value thereby ascertained, then and in such case the Directors for the time being shall be at liberty and shall have full power to occupy the piece of land so valued by the said Arbitrators, in the same manner as other portions of the said road.

VII.

VII. And be it enacted, That in any action, real or personal, or mixed, for and on account of such occupation by the said Company, their agents or servants, or other person or persons using the said Road, the said award shall and may be pleaded in bar of such action at any time after the said two terms in the said Court of Queen's Bench, notwithstanding any defect in form or substance in the said award: Provided always, that it shall and may be lawful to and for the party or parties interested in the land mentioned in the award, or their agent, by counsel, at any time within the two terms as aforesaid, after the same hath been made and the amount of the value awarded tendered, to move the said Court of Queen's Bench to set aside such award, for corruption or any other matter or thing for which awards are now subject to be impugned by law: Provided also, that if the first award be so set aside by the Court of Queen's Bench, the matter in difference may again be submitted to other Arbitrators, and so on till a satisfactory award be made between the parties.

And may plead
award in bar
of action.

Proviso:
Appeal to
Court of Q. B.

Proviso.

VIII. And be it enacted, That the said Company shall have full power and authority to explore the country lying between the Village of Huntingdon, in the Township of Godmanchester, and the upper *terminus* of the Beauharnois Canal, and to designate and establish, and it shall be lawful for the said Company, subject to the provisions of this Act, to take, appropriate, have and hold, to and for the use of them and their successors, the requisite lands upon the line and within the boundaries of the said Plank or Macadamised Road hereby authorized to be constructed; and for the purpose aforesaid, the said Company and their agents, servants and workmen are hereby authorized and empowered to enter into and upon the lands and grounds of or belonging to the Queen's Majesty, Her Heirs or Successors, or to any other person or persons, bodies politic or corporate, and to survey and take levels of the same or any part thereof, and to set out and ascertain such parts thereof as they shall deem necessary and proper for making the said road, and all such matters and conveniences as they shall think proper and necessary for making, effecting, preserving, completing and using of the said intended road; and also to make, build, erect and set up, in and upon the said route of the road aforesaid, or upon the land adjoining or near the same, all such works, ways, roads and conveniences as the said Company shall think convenient and necessary for the purposes of the said Road, and also from time to time to alter, repair, amend, widen or enlarge the same or any other of the conveniences above mentioned, as well for carrying or conveying goods, commodities, timber and other things, to and from the said road as for the carrying and conveying all manner of materials necessary for making, erecting, finishing, altering, repairing, amending, widening or enlarging the works of or belonging to the said road, and also to place, lay, work and manufacture the said materials on the ground near to the place or places where the said works or any of them are or shall be intended to be made, erected and repaired or done, and to build and construct the several works and erections belonging thereto, and also to make, maintain, repair or alter any fences or passages through the said road, or which shall communicate therewith, and to construct, erect, and keep in repair any piers, arches, or other works, in and upon any creeks or brooks for making, using, maintaining and repairing the said road, and also to construct, make and do all other matters and things which they shall think necessary and convenient for the making, effecting, preserving, improving, completing and using the said road, in pursuance and within the true meaning of this Act, they, the said Company, doing as little damage as may be, in the execution of the several powers to them hereby granted, and making satisfaction in manner herein mentioned, for all damages to be sustained by the owners or occupiers of such lands, tenements or hereditaments.

Power given
to explore the
country and
hold bounda-
ries of the said
road.

Certain other
concurrent and
necessary
powers given.

Tolls may be collected.

IX. And be it enacted, That it shall and may be lawful for the President and Directors of the said Company from time to time to fix, regulate and receive the Tolls and charges to be received from all persons passing and repassing over the said road hereby authorized to be constructed, erected, built, made and used.

Tolls and materials of Road vested in Company.

X. And be it enacted, That the said Road and all materials which shall be from time to time got or provided for constructing, building, maintaining or repairing the same, and the said Tolls as hereinbefore mentioned shall be and the same are hereby vested in the said Company, and their successors for ever.

Erection of Toll Gates and Houses.

XI. And be it enacted, That the President and Directors of the said Company shall have full power to erect such number of Gates in or across the said road, and fix such Tolls as they may deem fit and expedient (which rates or Tolls may be altered from time to time as circumstances may require,) and to erect and maintain such Toll Houses, Toll Gates and other erections, which to them may seem necessary and convenient for the due performance of their business.

Punishment of persons damaging Toll Gates or Houses.

XII. And be it enacted, That if any person or persons shall cut, break down or destroy in any way any of the Gates or Toll Houses to be erected by virtue of this Act, every such person so offending, and being lawfully convicted, shall be deemed guilty of a misdemeanor, and be punished by fine and imprisonment; and if any person or persons shall remove any earth, stone or timber on the said road, to the damage of the same, or shall forcibly pass or attempt to pass by force any of the Gates without having first paid the legal Toll at such Gate, such person or persons shall pay all damage by them committed, and shall forfeit and pay a fine not exceeding twenty pounds nor less than five pounds, currency, to be recovered before any Justice of the Peace for the District of Montreal.

Penalty.

Fines, &c., leviable by distress.

XIII. And be it enacted, That the fines and forfeitures imposed or authorized to be imposed by this Act, shall and may be levied and collected by distress and sale of the offender's goods and chattels, under the authority of any Warrant or Warrants for that purpose to be issued by any Justice of the Peace for the District of Montreal before whom the offender shall have been convicted, who is hereby authorized and empowered to grant the same.

Commutation of Tolls.

XIV. And be it enacted, That the said President and Directors, if they think proper, may commute the Tolls with any person or persons by taking of him, her or them a certain sum, either monthly or annually, in lieu of such Tolls, and that the said President and Directors shall affix in a conspicuous place at all such Toll Gates a table of the rates of Tolls to be exacted and taken, to be plainly and legibly printed.

Penalty for evading payment of Tolls.

XV. And be it enacted, That if any person or persons shall, after proceeding on the said road with any carriages or animals liable to pay Toll, turn out of the said road into any other road, and shall enter the said road beyond any of the said Gate or Gates without paying Toll, whereby such payment shall be evaded, such person or persons shall for every such offence forfeit and pay the sum of twenty-five shillings, which said sum shall be expended on the said road, or towards the discharging of any debts or other incumbrances thereon; and any one Justice of the Peace for the District of Montreal shall, on conviction of such offender before him, fine such person in the said penalty, and from his judgment there shall be no appeal.

XVI.

XVI. And be it enacted, That if any person or persons occupying or possessing any enclosed lands near any Toll Houses or Toll Gates which shall be erected in pursuance of this Act, shall knowingly permit or suffer any person or persons to pass through such lands or through any gate, passage or way thereon, with any carriage, horse, mare, gelding or other animal liable to the payment of Toll, whereby such payment shall be avoided, every person or persons so offending, and also the person riding or driving the animal or animals, or carriage, whereon such payment is avoided, being thereof convicted, shall for every such offence severally forfeit and pay any sum not exceeding twenty-five shillings, which shall be laid out in improving such road.

And for assisting persons to evade payment.

XVII. And be it enacted, That all persons, horses or carriages going to, or attending or returning from any funeral of any person, or going to or returning from divine service on the Lord's day, shall pass the Gates free of Toll.

Attendance on funerals and at divine service, Toll-free.

XVIII. And be it enacted, That the said Company or their agents or servants, at any time after the passing of this Act, under and by virtue of its provisions, shall and may construct, erect and build a road as aforesaid; and also that the said road contemplated by this Act shall not in any degree interfere with or encroach upon any fee simple, right or private easement or privilege of any individual now holding and enjoying the same or entitled thereto, without permission first had and obtained by the consent of the owner thereof, or by virtue of reference to arbitration authorized by this Act.

Powers of Company strictly limited by provisions of this Act.

XIX. And be it enacted, That the property, affairs and concerns of the said Company shall be managed and conducted by seven Directors, one of whom shall be chosen President, who shall hold their offices for one year, which said Directors shall be Stockholders to the amount of at least ten shares; and the first election of such Directors shall take place at the Village of Huntingdon, on the first Monday in August, one thousand eight hundred and forty-six, at the hour of twelve o'clock at noon; and thereafter the said annual election of Directors shall take place at the Village of Huntingdon, on the first Monday in May, at such time of the day as a majority of the Directors for the time being shall appoint; and public notice thereof shall be given in any newspaper or newspapers that may be published in the said District of Montreal, at least one month previous to holding the said election; and the said election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose in their own proper persons or by proxy; and all elections for such Directors shall be by ballot, and the seven persons who shall have the greatest number of votes at any election shall be Directors; and if it shall happen at any such election that two or more have an equal number of votes, in such manner that a greater number of persons than seven shall by a plurality of votes appear to be chosen Directors, then the said Stockholders hereinbefore authorized to hold such election, shall proceed to elect by ballot, until it is determined which of the said persons so having an equal number of votes shall be Director or Directors, so as to complete the whole number of seven, and the said Directors so chosen shall, as soon as may be after the said election, proceed in like manner to elect by ballot one of their number to be President; and if any vacancy or vacancies shall at any time happen among the Directors, by death, resignation or removal from the Province, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen, by a person or persons to be nominated by a majority of the Directors.

Number of Directors and term of office.

Time of first and subsequent election of Directors.

Public Notice.

Proxies.

Ballot.

President.

Death or other vacancies.

To what number of votes any number of shares shall entitle the holder.

XX. And be it enacted, That each Stockholder shall be entitled to a number of votes in proportion to the number of shares which he or she shall have in his or her own name, and shall have had at least one month previous to the time of voting, according to the following rules, that is to say: One vote for each share not exceeding four, five votes for six shares, six votes for eight shares, seven votes for ten shares, and one vote for every five shares above ten.

Default to elect not to operate dissolution of Company.

XXI. And be it enacted, That in case it should at any time happen that an election of Directors should not be made on any day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any day to hold and make an election of Directors in such manner as shall be regulated by the By-laws of the said Corporation, or if such election be the first, then on any day of which notice shall be given as hereinbefore required for such first election.

Rules and Regulations.

XXII. And be it enacted, That the Directors for the time being, or a majority of them, shall have power to make and subscribe such Rules and Regulations as to them shall appear needful and proper, touching the management and disposition of the stock, property, estate and effects of the said Company, and touching the duties of the officers, clerks and servants, and all such other matters or things as appertain to the business of the said Corporation, and also shall have power to appoint as many officers, clerks and servants for the carrying on the said business, and with such salaries and allowances, as to them shall seem fit.

Meeting of Stockholders.

XXIII. And be it enacted, That on the first Monday in the month of August next, a meeting of the Stockholders shall be held in the Village of Huntingdon, who in the same manner as hereinbefore provided, shall proceed to elect seven persons to be Directors, who shall elect by ballot one of their number to be President, and shall continue in office until the first Monday in May next after their election, and who, during such continuance, shall discharge the duties of Directors, in the same manner as if they had been elected at the annual election, or until such time thereafter as other Directors are appointed.

Amount of Capital Stock.

Shares of ten Pounds each.

Transferable.

Proviso against Banking.

XXIV. And be it enacted, That the whole Capital Stock which the said Company may have or hold by virtue of this Act, shall be fifteen thousand pounds, with power to increase the same to double that amount, if found necessary, for constructing the said Road; and that the said Capital Stock shall be composed of shares of the value of ten pounds currency each, which may, after the first instalment thereon shall have been paid, be transferable by the respective persons subscribing and holding the same to any other person or persons, and such transfer shall be entered and registered in a book or books to be kept for that purpose by the said Company: Provided always, that nothing herein contained shall extend to authorize the said Company to carry on the business of Banking.

Calls for instalments upon shares.

XXV. And be it enacted, That so soon as Directors have been appointed as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company, by giving thirty days' notice thereof in any newspaper published in the said District of Montreal, and affixed during a like period on the doors of the Parish Church at Saint Timothy, and of all places of worship in the Village of Huntingdon, for an instalment of

of twenty per cent. upon each share which they or any of them may respectively have subscribed for, and that the residue of the sums or shares of the Stockholders shall be payable by instalments, in such time and in such proportions as a majority of the Stockholders, at a meeting expressly convened for that purpose, shall agree upon, so that no such instalment shall exceed twenty per cent. nor become payable in less than thirty days after public notice in the newspaper or newspapers as aforesaid: Provided always, that the said Directors shall not commence the construction of the said Road or way until the first instalment shall be paid in. Proviso.

XXVI. And be it enacted, That of the persons as aforesaid nominated and balloted for in manner aforesaid, those seven shall be deemed elected who shall have the greater number of votes according to the shares held by the voters respectively, as hereinbefore prescribed, at each and every such election of Directors; and that at every such election in every year as aforesaid, after the ballot shall have been kept open from eleven of the clock in the forenoon to two of the clock in the afternoon, the seven persons having the majority of votes in manner aforesaid shall, so soon after as convenient on the same day, be declared the Directors chosen for the ensuing year, by any two or more Scrutineers who shall have been previously nominated by the Stockholders for the purpose of nomination and report of such ballot: Provided nevertheless, that the Stockholders present at the place of ballot shall in the nomination of Scrutineers vote *per capita* and not by shares. Seven persons having greater number of votes, to be elected.

Scrutineers.
Proviso.

XXVII. And be it enacted, That if any Stockholder or Stockholders as aforesaid shall refuse or neglect to pay at the time required, any instalment or instalments which shall be lawfully required by the Directors as due upon any share or shares, such Stockholder or Stockholders so refusing or neglecting shall forfeit such share or shares as aforesaid, with any amount which shall have been previously paid thereon, and the said share or shares may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid thereon, shall be accounted for and applied in like manner as other monies of the said Company: Provided always, that the purchaser or purchasers shall pay the said Company the amount of the instalment required, over and above the purchase money of the share or shares so purchased by him, her or them as aforesaid, immediately after the sale and before they shall be entitled to the certificate of the transfer of such shares purchased as aforesaid: Provided always, that ten days notice of the sale, of such forfeited shares shall be given in any newspaper or newspapers published in the District of Montreal, and that the instalments due may be received in redemption of any such forfeited share, at any time before the day appointed for the sale thereof. Forfeitures of shares upon non-payment.

Proviso.

Proviso.

XXVIII. And be it enacted, That it shall be the duty of the Directors to make annual dividends of so much of the profits of the said Company as to them or a majority of them shall seem advisable, and that once in each year an exact and particular statement shall be rendered of the state of their affairs, debts, credits profits and losses, such statement to appear in the books, and to be open to the perusal of any Stockholder at his or their reasonable request. Annual dividends.

XXIX. And be it enacted, That whenever the said Tolls shall in the annual receipts exceed in amount a sum sufficient to defray the expenses of maintaining and repairing the said road and to afford an annual income to the said Company of ten per cent. profit on the capital actually expended in the construction of the said road from the commencement of its being travelled upon as aforesaid, then and in such case the increasing surplus profits above 10 per cent. to constitute a sinking fund. Surplus profits above 10 per cent. to constitute a sinking fund.

surplus revenue of the said Tolls shall be charged against the said Company as so much received by them in the nature of a sinking fund, by means whereof to purchase from the said Company the entire estate, use and property of the said road, to and for the use of the public in such manner and form as the Legislature of this Province may by Legislative enactment hereafter provide.

Legislature
may purchase
the road from
the Company.

XXX. And be it enacted, That the Legislature of this Province may, at any time whatever, purchase the entire estate, property and use of the said road from the said Company, paying to the said Company the capital so as aforesaid actually expended, together with fifteen per cent. advance thereupon, to the credit of which payment all revenue exceeding ten per cent. upon the *bonâ fide* expenditure, and over and above the expense of maintaining and repairing the said road shall be charged and taken; and it is also hereby provided and declared, that if any deficiencies of the said ten per cent. annual profit should occur at any time, such deficiencies shall also be chargeable against the increasing revenue of the subsequent years, so that the Company may fairly and actually receive ten per cent. profit on their said *bonâ fide* expenditure for the whole time they shall enjoy the estate, rights and privileges acquired under the authority of this Act; any thing herein contained to the contrary thereof in anywise notwithstanding.

Annual state-
ment of affairs
of the Compa-
ny to be laid
before the
Legislature,
attested on
oath.

XXXI. And be it enacted, That it shall be the duty of the said Corporation, and of the person entrusted with the chief direction of its affairs, to lay annually before the three branches of the Legislature of this Province, in the course of the first fifteen days after the opening of the Session, a general statement, upon the oath of the President or Vice President of the said Company before any Justice of the Peace, of the affairs of the said Company, shewing as well the amount of its liabilities as the assets or means of meeting the same; and such President or Vice President being charged before any competent Court with false swearing in the matter of such statement, shall be tried, and if found guilty be punished in like manner as if he had been charged and convicted of the crime of wilful and corrupt perjury.

Legislature
may alter this
Act.

XXXII. And be it enacted, That notwithstanding the privileges that may be conferred by this Act, the Legislature may at any time hereafter, in their discretion, make such additions to this Act or such alteration of any of its provisions, as they may think proper for affording just protection to the public or to any person or persons, body corporate or politic, in respect to their estate, property or rights, or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right of way, public or private, that may be affected by any of the powers given to this Corporation.

Limitation of
actions for
things done
under this
Act.

XXXIII. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next after the fact committed, and not afterwards, and the Defendant or Defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

Public Act.

XXXIV. And be it enacted, That this Act shall be taken to be a Public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace, and other persons without being specially pleaded.



A N N O N O N O

VICTORIÆ REGINÆ.

C A P . L X X X V .

An Act to authorize the Desjardins Canal Company, to borrow a sum of money to complete the Desjardins Canal.

[23rd May, 1846.]

WHEREAS the President, Directors and Company of the Desjardins Canal Company, as well as other inhabitants of the District of Gore, have by their petition represented that the said Canal is in an incomplete state, and that in order to render the said work of the greatest public utility and of profit to the Stockholders, and of security to the Government for the loans already advanced to the said Company out of the public funds of the Province, it is necessary that a large sum be expended in improving the said Canal, and have also prayed that the said President, Directors and Company be authorized to effect a loan to the extent of twenty-five thousand pounds, to be so expended, and that in order to better enable the said President, Directors and Company to effect such loan, the repayment of the loans heretofore granted to the said Company, together with the securities therefor, be postponed to such new loan, and that such new loan take precedence of payment and security on the tolls of the said Canal and the property and effects of the said Company; and whereas it is expedient to grant the prayer of the said petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful to and for the President and Directors of the said Desjardins Canal Company, or the majority of them for the time being, to borrow from any person or persons, or body or bodies corporate, a sum of money which in the whole shall not exceed the sum of twenty-five thousand pounds, currency; and that to secure repayment of the sum so to be borrowed, and the payment of the interest thereon at a rate not exceeding six per cent. per annum, the said President and Directors for the time being, or a majority of them, may make and execute any bond or bonds, mortgage or mortgages on the said Canal, and the tolls thereon, and other property of the Company, under the Common Seal of the said Company, to and in favor of the person or persons, or body or bodies corporate, who shall so loan the said sum or sums of money to the said Company, and that all such bonds or mortgages issued under this Act, to the said extent of twenty-five thousand pounds, currency, shall take precedence and have priority of lien on the said Canal, and the tolls thereon,

Preamble.
Recital.

The President and Directors of the said Company empowered to borrow £25,000.
And may mortgage the Canal and Tolls to secure the lender.

Such mortgage to have precedence of former loans.

thereon, and other property of the said Company, over all claims arising from loans heretofore granted to the said Company out of the public funds of this Province, or of that portion of this Province formerly Upper Canada.

How the money borrowed shall be deposited. It shall be used for certain purposes only.

How it may be drawn out.

II. And be it enacted, That it shall be the duty of the President and Directors of the said Desjardins Canal Company, immediately on effecting any such loan, or any part of the same, to pay the money loaned into some of the chartered Banks or Agencies of such Banks in the Town of Hamilton, or into any Agency of some one of the said chartered Banks or Agencies situate in the Town of Dundas, at the credit of the said Company, and to be drawn from such Bank or Agency thereof, by the check of the President of the said Company, countersigned by one of the Directors or the Secretary of the said Company, and by the Engineer employed by the said Company to superintend the improvement of the said Canal, which Engineer shall first be approved by the Board of Works of this Province; and that no part of such loan shall be applied by the said President and Directors, to any other purpose than to such improvement of the said Canal.

Tolls to be paid over weekly to some Chartered Bank in Dundas or Hamilton.

For what purposes only the proceeds of such Tolls, &c. shall be used.

III. And be it enacted, That it shall be the duty of the said President and Directors, to pay over or cause to be paid over to some such Bank or Agency of such Bank, or Agency as aforesaid, either in Dundas or Hamilton, at least once a week, all the tolls or other money received for or in behalf of the said Company, and all monies that may now be due or in the hands of the said Company, and that the same shall not be drawn for, excepting for the purpose of paying, or in part paying off some debt due by the Company, at the time when the same shall be drawn; and that each and every check or order given for the same, shall be signed by the President and one other Director of the said Company, and shall specify the particular demand which it is intended to be applied upon.

Accounts to be laid before the Legislature at each session.

IV. And be it enacted, That it shall be the duty of the President and Directors of the said Company to make or cause to be made and transmitted to the different Branches of the Provincial Legislature, within thirty days after the commencement of each and every Session thereof, a true and faithful account of the receipts and expenditure of the said Company for the previous year, which said statement shall be verified by the oath of the President or Secretary of the said Company, to be taken before any of Her Majesty's Justices of the Peace for the District of Gore.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXXXVI.

An Act to amend an Act, intituled, *An Act to extend the Charter of the Bank of Upper Canada, and to increase the Capital Stock thereof.*

[23rd May, 1846.]

WHEREAS the Bank of Upper Canada, have by Petition to the Legislature, Preamble.
prayed for an extension of time within which their new shares of Capital Stock must be fully paid up, and for power to take and hold property in satisfaction of debts previously contracted ; And whereas it is expedient to grant their prayer to the extent hereinafter mentioned : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the term of five years limited in and by the third section of the Act of the Parliament of this Province, passed in the Session thereof held in the sixth year of Her Majesty's Reign, intituled, *An Act to extend the Charter of the Bank of Upper Canada, and to increase the Capital thereof*, for wholly paying up the increase of two thousand four hundred shares of Capital Stock provided by the second section, shall be, and the same is hereby extended to four years from and after the passing of this Act.

Term of five years limited by 6 Vict. chap. 27, for payment of Capital Stock, extended to four years from the passing of this Act.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXXXVII.

An Act to amend an Act, intituled, *An Act to extend the Charter of the Commercial Bank of the Midland District, and to increase its Capital Stock.*

[23rd May, 1846.]

WHEREAS the President, Directors and Company of the Commercial Bank of the Midland District, have by Petition to the Legislature, prayed for an extension of time within which their new shares of Capital Stock must be fully paid up, and for a change in the time of the Annual General Meeting of the Shareholders of the Capital Stock of the said Corporation, and for power to take and hold property in satisfaction of debts previously contracted; And whereas it is expedient to grant their prayer to the extent hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the term in and by the second section of the Act of the Parliament of this Province, passed in the session thereof held in the sixth year of Her Majesty's Reign, intituled, *An Act to extend the Charter of the Commercial Bank of the Midland District, and to increase its Capital Stock*, limited for wholly paying up the increase of twelve thousand shares of Capital Stock provided by the said second section, shall be and the same is hereby extended until the first day of January in the year one thousand eight hundred and fifty.

Preamble.

Time limited by 6 V. c. 26, for the payment of new Stock, extended to 1st January, 1850.

II. And be it enacted, That the General Meeting of the Shareholders of the Capital Stock of the said Corporation for the election and appointment of Directors, and for all other general purposes touching the affairs and the management of the affairs of the Corporation shall, from and after the passing of this Act, be held annually on the first Tuesday in July in each year, instead of the second Tuesday in July in each year, as by the sixth and fifteenth sections of the said last mentioned Act now provided.

At what times the General Meetings for the Election of Directors shall hereafter be held.



A N N O N O N O

VICTORIÆ REGINÆ.

C A P. L X X X V I I I.

An Act to incorporate certain persons under the name of the Albion Road Company.

[18th May, 1846.]

WHEREAS the inhabitants of the Townships of Albion, Vaughan, the Gore of Toronto, and of the Townships in rear thereof, suffer great inconvenience in bringing the produce of their farms to market, in consequence of the badness of the roads over which they have to travel ; And whereas it would tend much to improve the country and to confer great benefits on the inhabitants of those Townships and of that part of the Home District which lies north-westerly thereof, if the road now travelled and known as the Albion Road, commencing in rear of Lot number twelve, in the fifth Concession of the Township of York, at the point where the Western Plank Road terminates, and running along the Albion Road to Geddes' Corner, on Lot number two, in the ninth Concession of the North Division of the Gore of Toronto, were planked or macadamized ; And whereas it would be desirable to continue the said road on to Bolton Mills in the Township of Albion, as soon as practicable, and as much farther as may be deemed desirable, and also to make a Branch Macadamized or Planked Road, to commence at Lot number one, on the Base line of the Northern Division of the Gore of Toronto, and to terminate at Graham's Corner at or near Lot number one, in the seventh Concession of the said Gore of Toronto ; and also to make a branch Macadamized or Planked Road through the Townships of York and Vaughan, commencing at the line of the Township of King, between the eighth and ninth Concessions, and following the public highway laid out and known as the King Road to the Township of York, and to be continued through the said Township of York so as to intersect the Albion Road at some point between its commencement in rear of Lot number twelve, in the fifth Concession, and Conatt's Corner, in Concession A, in the Township of Etobicoke ; And whereas John Grubb and others have petitioned the Legislature to be by law incorporated for the purposes of effecting the said improvements by means of a Joint Capital Stock : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That John Grubb, Thomas Musson, James Sleightholm, John Kellam, John Porter, Robert Bowman and John P. De La Haye,

Preamble.

Certain persons incorporated.

Corporate
name and
powers.

Common Seal.

May hold real
estate, &c.

Proviso :
Stock may be
applied on the
Branch Road.

Proviso :
When Tolls
may be taken.

Amount of
Capital Stock,
£2,000 in
shares of £5
each.

Proviso as to
transfers.

Books of Sub-
scription to be
opened at
Clairville.

To remain
open for thirty
days before
the end of
which no per-
son shall take
more than 20
shares.

De La Haye, or any five of them, together with all such other persons as shall become Stockholders in such Joint Capital or Stock as hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic, in fact, by the name of *The Albion Road Company*, and by such name they and their successors shall and may have continued succession, and by such name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever, and that they and their successors may and shall have a Common Seal, and may change and alter the same at their will and pleasure, and also that they and their successors by the said name of *The Albion Road Company*, shall be in Law capable of purchasing, having and holding to them and their successors, any estate, real, personal or mixed, and which may be necessary for the use of the said Company, and of letting, conveying, or otherwise parting therewith for the benefit and on account of the said Company from time to time as they shall deem necessary or expedient; and shall have full power and authority to macadamize or plank the road or roads mentioned and described in the preamble to this Act, to erect Toll Gates, and to take Tolls thereon in the manner hereinafter mentioned, when the same shall be completed; and may, for the purposes of this Act, either use the road now existing between the places aforesaid, or may change or alter the direction or place of the said road, or any part thereof, as they shall find most expedient: Provided always, that it shall and may be lawful for the said Company, and they are hereby required to apply the proceeds of the Stock subscribed expressly for the purpose of making the branch road last named in the preamble in constructing the same: Provided always, and it is hereby enacted and declared, that so soon as three miles of the said road shall have been completed, it shall and may be lawful for the Directors of the said Company to put up and erect a Toll Gate thereon, and collect such Tolls as the Directors may think expedient to be levied, and taken of and from persons travelling along the said road.

II. And be it enacted, That the whole Capital Stock (exclusive of any real estate which the said Company may have or hold by virtue of this Act,) shall not exceed in value the sum of two thousand pounds of lawful money of this Province, which said Capital Stock shall be composed of Shares of the value of five pounds each: and that the said shares of the said Capital Stock shall be transferable, and may be from time to time transferred by the respective persons so subscribing or holding the same to other person or persons; Provided always, that such transfer be entered or registered in a book or books to be kept for that purpose by the said Company.

III. And be it enacted, That within thirty days after the passing of this Act, Books of Subscription shall be opened at Clairville, in the Gore of Toronto, by such person or persons, and under such regulations within the meaning of this Act as the said Petitioners or the majority of them shall by writing direct.

IV. And be it enacted, That the said Books of Subscription shall remain open for subscription for thirty days, during which time no person subscribing shall so subscribe for more than twenty Shares, but if after the expiration of the said thirty days any Stock should remain not taken up, then it shall be lawful for the said subscribers or any of them, or any other person or persons, to subscribe for any greater or less number of Shares, so long as any of the said Stock may remain unsubscribed for.

V. And be it enacted, That all and every the Subscribers for the said Stock or any part thereof, shall at the time of subscribing pay a proportion of one-third upon the Capital Stock of the whole number of Shares, for which they, or any of them respectively, may subscribe: and that such proportion so paid and deposited at the time of subscription shall be at the disposal of the Directors hereinafter mentioned, to and for the purposes of this Act in manner as hereinafter is directed, and that the residue of the Sum or Shares of the Subscribers and Stockholders shall be payable by instalments, at such times and in such proportion as a majority of the Stockholders, at a meeting to be expressly convened for that purpose, shall agree upon: Provided, that no such instalment shall exceed one-third of the Capital Stock, or become payable in less than one year after public notice in one or more of the public newspapers published at Toronto.

Subscribers to pay one-third upon their Capital Stock, at time of subscribing.

Remainder by instalments.

Proviso as to amount of each instalment.

VI. And be it enacted, That if any Stockholder as aforesaid, shall refuse or neglect to pay at the time required, any such instalment or instalments, as shall be lawfully required by the Directors, as due upon any Share or Shares, then such Stockholder so refusing or neglecting shall forfeit such Share or Shares as aforesaid, with the amount previously paid thereon, and the said Share or Shares may be sold by the said Directors, and the sum so arising therefrom, together with the amount previously paid thereon, shall be accounted for and divided in like manner as other monies of the said Company: Provided also, that nothing in this Act shall prevent any Stockholder from paying up the amount he subscribes for at any time to the Directors, and the same shall be allowed to him by the said Company.

Penalty on Stockholders refusing to pay instalment.

Proviso.

VII. And be it enacted, That as soon as one-third of the Capital Stock shall be paid into the hands of such receiver or receivers as the Stockholders shall appoint, it shall and may be lawful for the Subscribers or the majority of them, upon thirty days' notice, published in one or more of the Toronto newspapers, to call a public meeting at Clairville aforesaid, for the purpose of proceeding to the election of Directors as hereinafter mentioned, and the persons then and there chosen shall be capable of serving until the first Monday in April, one thousand eight hundred and forty eight, and the Directors so chosen shall commence the business of the said Company, and proceed therein until the first subsequent election of Annual Directors as hereinafter mentioned.

Election of Directors, and their period of service.

VIII. And be it enacted, That the stock, property, affairs and concerns of the said Corporation shall be managed and conducted by five Directors, one of whom to be the President, who shall hold his office for one year; which Directors shall be Stockholders and shall be inhabitants of the Home District, and shall be elected on the first Monday in April, in each and every year, at such time of the day and at such place in the said Village of Clairville, as the majority of the Directors for the time being, after thirty days' public notice, shall appoint: Provided nevertheless, that the first Board of Directors, to be chosen by the subscribers as aforesaid, shall continue in office until the first Monday of April, one thousand eight hundred and forty-eight, as in the last section provided, and no longer, unless re-elected.

Five Directors to manage affairs of Corporation. Qualification of residence.

Proviso.

IX. And be it enacted, That the election of Directors shall be held and made by such Stockholders of the said Company as shall attend at Clairville aforesaid for that purpose in their own proper persons or by proxy, and shall be determined by ballot, such ballot to be regulated and calculated by the number of votes allowed to such Stockholders

Directors to be elected by Stockholders who shall attend in person or by proxy at Clairville.

Ratio of votes
to shares.

Stockholders according to the number of Shares held by them, respectively, as follows, that is to say : One vote for one Share, three votes for five Shares, five votes for ten Shares, seven votes for fifteen Shares, ten votes for twenty Shares ; Provided always, that the Stockholders so voting shall be possessed of the Share or Shares in respect of which they shall respectively vote at least three months before the time of election ; and that no person, copartnership, or body politic, shall be entitled to more than one vote for each Share at any such election, nor at the determination of any other matter or thing concerning the said Company or its affairs, which may by the provisions of this Act be submitted to the judgment and decision of the Stockholders generally ; Provided also that the choice of the Scrutineers hereinafter mentioned and of the President be had as hereinafter expressly directed.

Proviso.

Directors to be
Stockholders
of five shares.

Co-partner-
ships how to
vote, &c.

X. And be it enacted, That the Directors to be chosen shall be Stockholders in the said Company, and shall hold to their own use five Shares at least, and that all and every copartnership and copartners, body and bodies politic or corporate, holding any Share or Shares of the Stock of the Company, shall each of them vote only as an individual Stockholder, nor shall two or more persons belonging to any such copartnership or copartnerships, body or bodies politic or corporate, be capable of being nominated or chosen or of sitting as Directors, although such persons may hold Stock in their private right, or to their private use in the said Company.

Persons hav-
ing the great-
est number of
votes to be
Directors.
Scrutineers to
be chosen.

XI. And be it enacted, That of the persons as aforesaid nominated and ballotted for in the manner as aforesaid, those shall be deemed elected who shall have the greatest number of votes according to the Shares held by the voters respectively, as hereinbefore prescribed at each and every such election of Directors ; and at each and every such election on the first Monday of April, in each and every year as aforesaid, after the ballot shall have been kept open from eleven of the clock in the forenoon to two of the clock in the afternoon, the persons having the majority of the votes in manner aforesaid shall, so soon thereafter as convenient on the same day, be declared the Directors chosen for the ensuing year by any two or more Scrutineers who shall have been previously nominated by the Stockholders for the purpose of nomination and report of such ballot ; Provided nevertheless, that the Stockholders present at the place of ballot shall in the nomination of Scrutineers vote *per capita*, and not by Shares.

Proviso.

Directors to
elect Presi-
dent.

XII. And be it enacted, That the said Directors in the same day and place wherein they shall have been so chosen and declared Directors, shall, after all other persons have retired, choose by plurality of voices one of their number to be President, in which choice the Directors shall vote *per capita*, and not by Shares.

In case of va-
cancy among
Directors, the
other Direc-
tors to supply
the vacancy by
election.

XIII. And be it enacted, That in case of vacancy among the Directors, by death or absence for more than two months from the sittings of the said Board, such vacancy shall as often as necessary be supplied by ballot in manner aforesaid, the Directors for the time being, being present, declaring such vacancy, and giving public notice to the Stockholders to meet at Clairville, in the Gore of Toronto, for the purpose of supplying the said vacancy by ballot in manner aforesaid.

All questions
to be decided
by majority of
votes.

XIV. And be it enacted, That all questions submitted to or coming before the Board of Directors concerning the affairs of the said Company shall be decided by the majority of voices ; Provided always, that the President of the said Company shall have no other than a casting vote.

XV.

XV. And be it enacted, That the Directors for the time being, or the majority of them, shall have power to make and subscribe such Rules and Regulations, and the same to alter and amend as to them shall appear needful, just and proper, touching the management and disposition of the Stock, property, estate, and effects of the said Corporation, and touching the duties and conduct of the clerks and servants employed by the said Company, and shall have power to make and subscribe in the name of the said Company all contracts for labour, work, materials, and all matters concerning the construction of the said road, and after the same be completed, concerning the Tolls of the said road, and other matters and things concerning as well the construction of the said road, its charges, tolls, profits, losses, dividends, and revenue whatsoever, such Rules and Regulations not being contrary to this Act nor to the laws of this Province.

Directors to make rules and regulations.

XVI. And be it enacted, That it shall and may be lawful for the President and Directors of the said Company from time to time to order and establish the rates of Toll payable by persons travelling upon the said road, and the said Company shall annually, if required, exhibit an account to either or every branch of the Legislature of the Province, of the Tolls so regulated and the amount thereof received, and of the sums expended in keeping the said road in repair, and also such accounts authenticated in such manner and form as the authority so requiring the same may deem satisfactory.

President and Directors to establish rates of Toll, and to exhibit accounts yearly to the Legislature.

XVII. And be it enacted, That whenever the said Tolls shall in the annual receipts exceed in amount a sum sufficient to defray the expenses of maintaining and repairing the said road, and to afford an annual income to the said Company of ten per cent. on the capital actually expended in the construction of the said road, from the commencement of its being travelled as aforesaid, then and in such case the increasing surplus revenue of the said Tolls shall be charged against the said Company, as so much by them received in the nature of a sinking fund, by means whereof to purchase from the said Company the entire estate, use and property of the said road, to and for the use of the public in such manner and form as the Legislature of this Province may by Legislative enactment hereafter provide.

When receipts exceed an amount sufficient to defray expenses of road, the surplus revenue to be applied to a sinking fund to purchase the road for the public.

XVIII. And be it enacted, That if any person or persons shall cut, break down or destroy in any way, any of the Gates or Toll-houses to be erected by virtue of this Act, every such person so offending and being lawfully convicted, shall be deemed guilty of a misdemeanor and be punished by fine and imprisonment; and if any person or persons shall remove any earth, stone, or timber, on the said road, to the damage of the same, or shall forcibly pass or attempt to pass by force any of the Gates without having first paid the legal Toll at such Gate, such person or persons shall pay all damages by them committed, and shall forfeit and pay a fine not exceeding five pounds nor less than ten shillings, currency, to be recovered before any Justice of the Peace for the Home District.

Penalty on persons destroying or damaging Toll Gates or other Works.

XIX. And be it enacted, That the fines and forfeitures authorized to be imposed by this Act, shall and may be levied and collected by distress and sale of the offender's goods and chattels under the authority of any warrant or warrants for that purpose to be issued by any one of Her Majesty's Justices of the Peace for the Home District, who are hereby authorized and empowered to grant the same, and in case there shall be no such goods and chattels to satisfy such warrant or warrants, such offender or offenders

Fines to be levied by distress and sale, and offender committed for want of sufficient distress.

offenders may be committed by such Justice or any other Justice of the said District to the Common Gaol of the Home District for any period not exceeding twenty days

Penalty on persons turning out of Road to enter it by another Road, so as to evade payment of Toll.

XX. And be it enacted, That if any person or persons shall after proceeding on the said road with any carriage or animal liable to pay Toll, turn out of the same Road into any other road, and shall enter the said road beyond any of the said Gate or Gates without paying Toll, whereby such payment shall be evaded, such person or persons shall for every such offence forfeit and pay a sum not exceeding five pounds nor less than ten shillings, which said sum shall be expended on the said road, or towards the discharging of any debt or other incumbrances thereon; and any one Justice of the Peace for the Home District shall on conviction of such offender, fine such offender in the said penalty, and from his judgment there shall be no appeal.

Penalty on persons occupying lands near Toll-houses permitting persons to pass through such lands so as to evade Toll.

XXI. And be it enacted, That if any person or persons occupying or possessing any enclosed lands near any Toll-houses or Toll-gates which shall be erected in pursuance of this Act, shall knowingly permit or suffer any person or persons to pass through such lands, or through any gate, passage, or way thereon, with any carriage, horse, mare, gelding; or other animal liable to the payment of Toll, whereby such payment shall be avoided; every person or persons so offending and also the person riding or driving the animal or animals, or carriage whereon such payment is avoided, being thereof convicted, shall, for every such offence severally forfeit and pay any sum not exceeding five pounds which shall be laid out in improving such road.

Exemptions from payment of Toll.

XXII. And be it enacted, That all persons with horses, wagons or other carriages going to or attending or returning from any funeral of any person on any day in the week, or going to or returning from Divine Service on the Lord's Day, shall pass the Gate free of Toll.

Legislature may purchase the said Road on certain conditions.

XXIII. And be it enacted, That the Executive Government of this Province may at any time whatever assume and take the said entire estate, property, and use of the said road from the said Company, paying to the said Company the capital so as aforesaid actually expended, together with fifteen per cent. advance thereupon, to the credit of which payment all revenue exceeding ten per cent. upon the *bona fide* expenditure, and over and above the expense of maintaining and repairing the said road shall be charged and taken, and it is also hereby provided and declared, that if any deficiencies of the said ten per cent. annual profit should occur at any time, such deficiencies shall be also chargeable against the increasing revenue of the subsequent years, so that the Company may fairly and actually receive ten per cent. profit on their said *bona fide* expenditure for the whole time they shall enjoy the estate, rights, and privileges acquired under the authority of this Act.

Company may purchase real estate to complete the Road.

XXIV. And be it enacted, That the said Company shall have full power and authority, for the purpose of forming and completing the road, to purchase and hold in their corporate capacity such real estate as may be necessary for all the purposes of the said road, and of this Act.

Directors may compromise with owners of land.

XXV. And be it enacted, That the Directors of the said Company for the time being shall have full power to contract, compound, compromise and agree with the owners and occupiers of land through or upon which the said road may most advantageously pass and terminate.

XXVI.

XXVI. And be it enacted, That if in the making of such contract, composition, compromise or agreement, any obstacle should arise between the parties thereto, touching the value of the portion of the land to be bought for the purposes aforesaid, then and in such case it shall and may be lawful for the Directors for the time being from time to time, as they or the majority of them may think fit, to appoint one or more person or persons as Arbitrator or Arbitrators on the part of the said Company, and also for the party or parties disagreeing as to the value as aforesaid, to appoint one or more person or persons, being an equal number with those chosen by the said Directors as Arbitrator or Arbitrators on his, her or their part; and that the persons so chosen on both sides shall, (having met for that purpose,) choose by ballot one other indifferent person, and the whole number of persons so chosen shall be the Arbitrators between the parties disagreeing; and the said Arbitrators shall be sworn by a Justice of the Peace, justly, impartially and equally as far as in them lies, and to the best of their judgment, to determine the matter to be to them referred.

In case of disagreement, Arbitrators to be appointed.

Third Arbitrator how chosen.

XXVII. And be it enacted, That if after eight days' notice in writing given to the party so disagreeing as to the value aforesaid, such party will not nominate or appoint an Arbitrator or Arbitrators as aforesaid, on his part, it shall and may be lawful for the Directors to add to their first nomination as many others (not being Stockholders of the said Company) as and for the Arbitrators of the party so refusing to nominate for himself, and such added Arbitrators shall have the same power as if named by the party himself, and shall meet and ballot for the additional Arbitrator.

Proceedings to be adopted when party disagreeing shall refuse to appoint Arbitrator.

XXVIII. And be it enacted, That the Board of Arbitrators so constituted shall fix a convenient day for hearing the respective parties, and shall give eight days' notice at least of the day and place; and having heard the parties or otherwise examined into the merits of the matters so brought before them, the said Arbitrators or a majority of them shall make their award and arbitrament thereupon in writing, which award or arbitrament shall be final as to the value so in dispute as aforesaid.

Board of Arbitrators to fix a day for hearing parties. Majority to give an award.

XXIX. And be it enacted, That if the party so disagreeing refuse to accept the value of the land so ascertained by the Arbitrators as aforesaid, till the end of the second term in Her Majesty's Court of Queen's Bench in Canada West next after making the award and tender of the value thereby ascertained, then and in such case the Directors for the time being shall be at liberty, and shall have full power to occupy the piece of land so valued by the said Arbitrators and to macadamize or plank it in the same manner as other portions of the said road.

In case of refusal to accept the award after a certain period Directors may occupy piece of land valued by Arbitrators.

XXX. And be it enacted, That in any action of ejectment or other action, real, personal or mixed, for or on account of such occupation by the said Company, their servants or agents, or other person or persons using the said road, the said award may be pleaded in bar to such action at any time after the said two terms in the said Court of Queen's Bench, notwithstanding any defect in form or substance in the said award: Provided always, and it is hereby enacted and declared, That it shall and may be lawful to and for the party or parties interested in the land mentioned in the award, or their Agent by Counsel, at any time within the two next terms as aforesaid, after the same hath been made, and the amount of the value awarded tendered, to move the said Court of Queen's Bench to set aside such award for corruption or any other matter or thing for which awards are now subject to be impugned by law; Provided also, that if the first award be so set aside by the Court of Queen's Bench, the matter

Award may be pleaded in bar to any action arising from occupation of land.

Proviso: Award may be set aside for cause.

Proviso: New arbitration to be had in such case.

in

in difference may again be submitted to other Arbitrators, and so on till a satisfactory award be made between the parties.

Corporation not to be dissolved if any election do not take place on day appointed by this Act.

XXXI. And be it enacted, That in case it should at any time happen that an election of Directors should not be made on the day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any other day to hold and make an election in such manner as shall have been regulated by the Rules of the said Corporation to be made for that purpose, such Rules not being contrary to the provisions of this Act.

Directors to make annual dividends of profits, and to render accounts.

XXXII. And be it enacted, That it shall be the duty of the Directors to make annual dividends of so much of the profits of the said Company, as to them or the majority of them shall appear advisable, and an exact and particular statement shall be annually rendered of the state of their affairs, debts, credits, profits and losses, and such statements shall appear in the books of the Company, and be open to the perusal of any Stockholder upon his reasonable request.

During a certain time Company may continue road to Bolton's Mills, and elsewhere.

XXXIII. And be it enacted, That it shall and may be lawful for the said Company at any time within five years from the passing of this Act to continue the said Plank or Macadamized Road from its present intended termination at Geddes' Corner on Lot number Two, in the ninth concession of the northern division of the Gore of Toronto, along the road now travelled and known as the Albion Road, to Bolton's Mills in the said Township of Albion, and as much farther as they may deem expedient, and further to make a branch Plank or Macadamized Road in connection with the Albion Road, to commence at Lot Number One, on the base line of the northern division of the Gore of Toronto, and to terminate at Lot Number One, in the seventh Concession of the said Gore, and known as Graham's Corner, and also to make a branch Macadamized or Planked road through the Townships of York and Vaughan, commencing at the line of the Township of King between the eighth and ninth concessions and following the public highway laid out and known as the King Road to the Township of York, and to be continued through the said Township of York so as to intersect the Albion Road at some point between its commencement in rear of Lot Number Twelve in the fifth concession and Conatt's corner in concession A, in the Township of Etobicoke; and upon the completion of such road or roads, to erect Toll-bars and collect Tolls in the manner hereinbefore by this Act provided for that or similar purposes; and that the said Company shall have full power and authority to increase their Capital Stock to an amount sufficient for the completion of the said Roads so intended to be made as aforesaid.

Proportionate increase of Stock allowed.

Public Act.

XXXIV. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially noticed by all Judges and Justices of the Peace, and other persons without being specially pleaded.

Duration.

XXXV. And be it enacted, That this Act from the time of the passing thereof shall continue in force for fifty years, and from thence to the end of the then next ensuing Session of the Provincial Parliament, at which time the estate, rights, titles, tolls, and rates of the said road shall vest in Her Majesty, Her Heirs and Successors, to and for the public uses of this Province, unless it be otherwise provided by an Act of the Legislature to be for that purpose, at any time hereafter enacted, or unless the said road become so vested at an earlier period by the operation of the sinking fund aforesaid.

After the expiration of this Act the Roads, &c., shall vest in Her Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. LXXXIX.

An Act to transfer to Queen's College, at Kingston, certain estates, rights, and liabilities of the Universtity at Kingston.

[18th May, 1846.]

WHEREAS by an Act of the Legislature of the late Province of Upper Canada, passed in the third year of the Reign of Her Majesty Queen Victoria, intituled, *An Act to establish a College by the name and style of "The University at Kingston"* certain persons therein named were incorporated under the name and style of "The University at Kingston"; and whereas Her said Majesty was afterwards pleased to disallow the said Act; and whereas Her said Majesty was graciously pleased upon the petition of the aforesaid persons to incorporate them by Royal Letters Patent, tested at Westminster on the sixteenth day of October, in the fifth year of Her Reign, for purposes similar to the purposes in the said recited Act contained, under the name and style of "Queen's College at Kingston;" and whereas previous to the disallowance of the said recited Act, divers contracts, agreements and conveyances of real estate, had been made and executed by, to, and in favour of the University at Kingston, in and by the said Act incorporated; and whereas it is expedient to vest all and singular the said property, real and personal, rights or causes of action and effects whatsoever so conveyed or intended to be conveyed to the University at Kingston aforesaid, in Queen's College at Kingston so incorporated by Royal Letters Patent as aforesaid, and to make the same liable for the debts and liabilities of the University at Kingston as aforesaid: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all real and personal estate heretofore conveyed, or transferred or contracted, or intended to be conveyed to the University at Kingston aforesaid, and all bonds, contracts or agreements, rights or causes of action, property or effects whatsoever, owned or held by, or vested in the University at Kingston, or which would have been the property thereof, or vested therein, if the said Act had not been disallowed, shall be and the same are hereby declared to be vested in and become the property of Queen's College at Kingston, as fully in every respect as the same would have been vested in and held by the University at Kingston, had the said Act remained in force.

Preamble.
Disallowed
Act of U. C.
and the Royal
Letters Patent
cited.

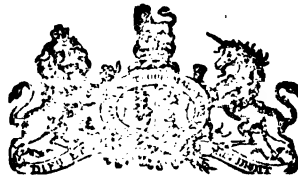
All real and
personal estate,
&c., of the
University at
Kingston, to
vest in
Queen's
College at
Kingston.

II.

Queen's College at Kingston to be liable to all the debts, &c., of the University at Kingston.

II. And be it further enacted, That the said Queen's College at Kingston shall both at law and in equity be liable to all the debts, contracts and agreements of the said University at Kingston, and may be sued and judgment thereupon recovered for such debts, contracts and agreements, as if the same had been originally the debts, contracts and agreements of Queen's College at Kingston aforesaid.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. XC.

An Act to encourage the establishment of certain Societies commonly called Building Societies, in that part of the Province of Canada formerly constituting Upper Canada.

[18th May, 1846.]

WHEREAS it is desirable to afford encouragement and protection to the establishment of certain Societies, commonly called *Building Societies*, for the purpose of raising by small periodical subscriptions a fund to enable the members thereof to obtain unincumbered freehold or leasehold property ; And whereas by an Act passed in the eighth year of Her Majesty's Reign, certain persons were incorporated as a Society for such purposes in the City of Montreal, by the name and style of *The Montreal Building Society*, and provisions were made for the conduct and management of that Society, and certain privileges and immunities conferred upon it ; And whereas it is expedient to encourage the formation of similar Societies throughout that part of this Province heretofore constituting the Province of Upper Canada, whenever the inhabitants of any particular locality may be desirous of availing themselves of the provisions of this Act : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That when and so soon as any twenty persons or upwards in that part of this Province of Canada, constituting heretofore the Province of Upper Canada shall have agreed to constitute themselves a Building Society, and shall have signed and executed, under their respective hands and seals, a declaration of their wish and intention so to constitute themselves such Building Society, and shall have deposited the same with the Clerk of the Peace in the District in which they shall reside, (who for receiving such deposit shall be entitled to receive a fee of two shillings and six pence) such persons, and such other persons as may afterwards become members of such Society and their several and respective executors, administrators and assigns, shall be ordained, constituted and declared to be, and shall be a corporation, body corporate and politic, by such name and style as a Building Society as by such declaration so deposited as aforesaid shall have been declared to be the name by which the persons so executing the same desire such Society to be known, for the purpose of raising by monthly or other periodical subscriptions of the several members of the said Society, and

Preamble.

Act 8 V. c.
94, cited.

When twenty persons in U. C. shall agree to constitute a Building Society, they shall be a Corporation for that purpose, after having complied with certain formalities.

Shares not to exceed £100 each.

Society may make Rules, &c., consistent with the laws of U. C.

Proviso: Member not to receive interest until his shares are paid up. Exception.

Society may receive a sum of money from any member by way of *bonus* on any share, without being subject to penalties imposed by the Usury Laws.

Society to elect from time to time a Board of Directors.

Term of office.

Powers of a majority of Directors.

Proviso:

and in shares not exceeding the value of one hundred pounds for each share, (such subscriptions not to exceed twenty shillings per month for each share,) a stock or fund for the purpose of enabling each member thereof to receive out of the funds of the said Society the amount or value of his share or shares therein to erect or purchase one or more dwelling house or houses, or other freehold or leasehold estate, to be secured by way of mortgage or otherwise to the said Society until the amount or value of his share or shares shall have been fully paid to the said Society, with the interest thereon, and with all fines or liabilities incurred in respect thereof; and that it shall and may be lawful to and for the several members of such Society, from time to time to assemble together and to make, ordain and constitute such proper and wholesome Rules and Regulations for the government and guidance of the same, as the major part of the members thereof so assembled together shall deem meet, so as such Rules shall not be repugnant to the express provisions of this Act, or to the general laws of this Province or of Upper Canada; and to impose and inflict such reasonable fines, penalties, and forfeitures upon the several members of the said Society who shall offend against any such Rules, as the majority of the members may think fit, to be respectively paid to such uses for the benefit of the said Society, as the said Society by such Rules shall direct; and also from time to time to amend and alter such Rules as occasion may require, or annul or repeal the same, and to make new Rules in lieu thereof, under such restrictions as are in this Act contained: Provided that no member shall receive or be entitled to receive from the funds of such Society any interest or dividend by way of annual or other periodical profit upon any share or shares in the said Society until the amount or value of his share or shares shall have been realized; except on the withdrawal of such member, according to the Rules of the said Society then in force.

II. And be it enacted, That it shall and may be lawful to and for every such Society to have and receive from any member or members, such sum or sums of money by way of *Bonus* on any share or shares, for the privilege of receiving the same in advance prior to the same being realized, besides interest for the share or shares so received or any part thereof, without being subject or liable on account thereof to any of the forfeitures or penalties imposed by any Act or Acts of Parliament, or by any Laws in force in that part of the Province heretofore Upper Canada, relating to Usury.

III. And be it enacted, That every such Society shall and may from time to time, elect and appoint any number of the members of the said Society to be a Board of Directors, (who shall choose a President and Vice-President,) the number and qualification thereof to be declared in the Rules of such Society; and shall and may delegate to such Directors all or any of the powers given by this Act to be executed; and such Directors being so elected and appointed shall continue to act for and during such time as shall be appointed by the Rules of such Society, the powers of such Directors being first declared in and by the said Rules; and in all cases where Directors shall be appointed for any particular purpose, the powers delegated to them shall be reduced to writing and entered in a book by the Secretary or Clerk of the said Society; and a majority of the number of such Directors present at any meeting thereof shall at all times be necessary to concur in any act of such Directors, and they shall in all things delegated to them act for and in the name of such Society; and all acts and orders of such Directors, under the powers delegated to them, shall have the like force and effect as the acts and orders of such Society at any General Meeting thereof could or might have had in pursuance of this Act; Provided always, that the transactions of such Directors

Directors shall be entered in a book belonging to such Society, and shall from time to time and at all times be subject and liable to the review, allowance and disallowance of such Society, in such manner and form as such Society shall by their general Rules have directed and appointed or shall in like manner direct and appoint.

Acts of the Directors to be recorded.

IV. And be it enacted, That every such Society so established as aforesaid shall, in or by one or more of their said Rules, declare all and every the intents and purposes for which such Society is intended to be established, and shall also in and by such Rules direct all and every the uses and purposes to which the money which shall from time to time be subscribed, paid or given to or for the use or benefit of the said Society, or which shall arise therefrom or in anywise shall belong to the said Society, shall be appropriated and applied, and in what shares or proportions and under what circumstances any member of such Society, or other person, shall or may become entitled to the same, or any part thereof: Provided that the application thereof shall not in anywise be repugnant to the uses, intents or purposes of such Society or any of them to be declared as aforesaid; and all such Rules during the continuance of the same shall be complied with and enforced; and the monies so subscribed, paid or given, or so arising to or for the use or benefit of the said Society or belonging thereto, shall not be diverted or misapplied either by the Treasurer or Directors, or any other officer or member of such Society entrusted therewith, under such penalty or forfeiture as such Society shall by any Rule enforce and inflict for such offence.

Rules to declare purposes for which Society is established, &c.

Proviso: To what purposes only the monies of the Society shall be applied.

V. And be it enacted, That the Rules for the management of every such Society shall be entered and recorded in a book to be kept for that purpose, which book shall be open at all seasonable times for the inspection of the members of such Society, but nevertheless nothing contained herein shall extend to prevent any alteration in or amendment of any such Rules in the whole or in part, or making any new Rules for the management of such Society, in such manner as by the Rules of the said Society shall from time to time be provided.

Rules to be recorded in a book kept for that purpose, which shall be open to all members.

VI. And be it enacted, That all Rules from time to time made and in force for the management of such Society and entered and recorded as aforesaid, shall be binding on the several members and officers of the said Society, and the several contributors thereto, and their representatives, all of whom shall be deemed and taken to have full notice thereof by such entry and record as aforesaid; and the entry of such Rules in the book or books of the said Society as aforesaid or a true copy of the same, examined with the original and proved to be a true copy, shall be received as evidence of such Rules, respectively, in all cases: and no *Certiorari*, or other legal Process shall be brought or allowed to remove any such Rules into any of Her Majesty's Courts of Record.

Rules to be binding on members and officers of Society.

Certified copies to be evidence.

Certiorari taken away.

VII. And be it enacted, That no Rule entered as aforesaid shall be altered, rescinded or repealed, unless at a General Meeting of the Members of such Society, convened by public notice written or printed, signed by the Secretary or President of the said Society in pursuance of a requisition for that purpose by not less than fifteen of the Members of such Society, which requisition shall state the objects for which the meeting was called, and shall be addressed to the President and Directors; whereupon each member shall be notified of the proposed alterations through the Post Office, within fifteen days; such meeting to consist of not less than one-third of the shareholders, three-fourths of which meeting must concur in such alterations or repeal.

Rules to be altered, &c., at General Meetings only, and by a certain majority.

Rules to specify place of meeting, and powers and duties of members.

VIII. And be it enacted, That the Rules of every such Society shall specify the place or places at which it is intended that the said Society shall hold its meetings, and shall contain provisions with respect to the powers and duties of the members at large, and of such officers as may be appointed for the management of the affairs of the said society.

Directors to appoint officers of Society, pay salaries and expenses, &c.

IX. And be it enacted, That the Directors of every such Society shall and may from time to time at any of their usual meetings, elect and appoint such person or persons to be Officers of the said Society as they shall think proper, and grant such salaries and emoluments as they may deem fit, and pay such necessary expenses attending the management of the said Society as may be incurred ; and shall and may from time to time elect, when it shall be deemed necessary to carry into execution the purposes of the said Society, for such space of time and for such purposes as shall be fixed and established by the Rules of the said Society, and may from time to time discharge such person or persons, and elect and appoint others in the room of those who shall vacate or die or be so discharged ; and all and every such officer or other person whatsoever who shall be appointed to any office in any wise touching or concerning the receipt, management or expenditure of any sum of money collected for the purposes of the said Society, before he shall be admitted to take upon him the execution of any such office or trust, shall become bound in a bond in such form and for such amount as the Directors may determine, with two sufficient sureties, for the just and faithful execution of such office or trust, and for rendering a just and true account according to the Rules of the said Society, and in all matters lawful to pay obedience to the same.

Officers entrusted with money to give security.

Society may take and hold real estate, &c. mortgaged to Society, to secure payment of shares. And may proceed on such mortgages. May invest monies in public stocks, &c.

X. And be it enacted, That it shall and may be lawful for every such Society to take and hold any real estate, or securities thereon, *bonâ fide* mortgaged, or assigned to the said Society, either to secure the payment of the shares subscribed for by its members, or to secure the payment of any loans or advances made by, or debts due to such Society, and they may also proceed on such mortgages, assignments or other securities, for the recovery of the monies thereby secured, either at law or in equity or otherwise, and that such Society shall have the power of investing in the names of the President and Treasurer for the time being, any surplus funds in the stocks of any of the Chartered Banks or other public securities of the Province, and that all dividends, interest and proceeds arising therefrom shall be brought to account and applied to and for the use of the said Society, according to the Rules thereof.

Mode of proceeding when an officer of the Society shall die or become insolvent.

XI. And be it enacted, That if any person appointed to any office by such Society and being entrusted with and having in his hands or possession, by virtue of his said office, any monies or effects belonging to such Society, or any deeds or securities relating to the same, shall die or become bankrupt or insolvent, his heirs, executors, curators, administrators or assigns, or other person having a legal right shall within fifteen days after demand made by the order of the Directors of such Society, or the major part of them assembled at any meeting thereof, deliver over all things belonging to the said Society, to such persons as the said Directors shall appoint.

Property vested in President and Treasurer of Society for the time being.

XII. And be it enacted, That all real estate, monies, goods, chattels, property and effects whatever, and all titles, securities for money or other obligatory instruments and evidences or muniments, and all other effects whatever, and all rights and claims belonging to or had by such Society, shall be vested in the President and Treasurer of
the

the said Society for the time being for the use and benefit of the said Society and the respective members thereof, their respective executors, administrators or assigns, according to their respective claims and interests, and after the death or removal of any President or Treasurer, shall vest in the succeeding President and Treasurer for the same estate and interest as the former President and Treasurer had therein, and subject to the same trusts, without any assignment or conveyance whatever; and also shall for all purposes of action or suit as well criminal as civil, in law as in equity, in anywise touching or concerning the same, be deemed and taken to be, and shall in every such proceeding (when necessary) be stated to be, the property of the persons appointed to the offices of President and Treasurer of the said Society for the time being, in the proper names of such President and Treasurer, without further description, and such persons shall and they are hereby authorized to bring or defend, or cause to be brought or defended any action, suit or prosecution, criminal as well as civil, in law or in equity, touching or concerning the property, right or claim aforesaid, of or belonging to or had by the said Society, and in all cases concerning the property, right or claim aforesaid of the said Society, may sue and be sued, plead and be impleaded in their proper names as President and Treasurer of the said Society without other description, and no such suit, action or prosecution shall be discontinued or abated by the death of such persons or their removal from the offices of President or Treasurer, but shall continue in the proper name of the persons commencing the same; any law, usage or custom to the contrary notwithstanding; and the succeeding President and Treasurer shall have the same rights and liabilities, and shall pay or receive like costs as if the action or suit or prosecution had been commenced in their names, for the benefit of or to be satisfied out of the funds of the said Society.

They may bring suits, &c., concerning such property.

Continuance of actions.

XIII. And be it enacted, That in all such actions, suits and prosecutions as aforesaid, the Secretary of such Society, shall be a competent witness, notwithstanding he may also be Treasurer of the said Society, and that his name may have been used in such action, suit or prosecution as such Treasurer.

Secretary to be a competent witness, although he be also Treasurer.

XIV. And be it enacted, That the President, Vice-President, and Directors of every such Society shall, in their private capacity, be exonerated from all responsibility in relation to the liabilities of such Society.

President, &c., not to be responsible for liabilities of Society.

XV. And be it enacted, That the Rules of every such Society shall provide that the Treasurer or other principal Officer thereof shall once at least in every year prepare or cause to be prepared a general statement of the funds and effects of or belonging to the said Society; specifying in whose custody or possession the said funds or effects shall then be remaining, together with an account of all and every the various sums of money received and expended by or on account of the said Society since the publication of the preceding periodical statement; and every such periodical statement shall be attested by two or more members of the said Society appointed Auditors for that purpose, who shall not be Directors, and shall be countersigned by the Secretary or Clerk of the said Society, and every member shall be entitled to receive from the said Society a copy of such periodical statement, without charge.

Treasurer to provide statement of funds every year.

Account to be attested.

XVI. And be it enacted, That the word "Society" in this Act shall be understood to include and to mean Building Society and Institution established under the provisions and authority of this Act; the word "Rules" to include Rules, Orders, By-Laws and Regulations;

Interpretation clause.

Regulations; every word importing the singular number shall extend and be applied to several persons or things as well as one person or thing, and bodies corporate as well as individuals; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; the words "Real Estate" shall extend and apply to immoveable estate and property generally; and the word "securities" shall extend and apply to privileges, mortgages, (equitable as well as legal,) and incumbrances upon real and immoveable estate, as well as to other rights and privileges upon personal estate and property: That this Act shall extend to aliens, denizens and females, both to make them subject thereto and to entitle them to all the benefits given thereby; and that this Act shall be construed in the most beneficial manner for promoting the ends thereby intended.

Public Act.

XVII. And be it enacted, That this Act shall be deemed a Public Act, and shall extend to all Courts of Law or Equity in this Province, and be judicially taken notice of as such by all Judges, Justices and other persons whatsoever without the same being specially shown or pleaded.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



A N N O N O N O

VICTORIÆ REGINÆ.

C A P. X C I.

An Act to incorporate *Les Dames Religieuses de Notre Dame de Charité du Bon Pasteur*, at Montreal, for the care and reformation of Female Penitents.

[18th May, 1846.]

WHEREAS the Religious Ladies established at Montreal, and known as *Les Dames Religieuses de Notre Dame de Charité du Bon Pasteur*, having devoted themselves to the care and reformation of female penitents, have prayed that the Institution may be incorporated, in order that they may better accomplish the object for which it was formed, and it is expedient to encourage so laudable an undertaking, and to grant the prayer of their Petition : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That there shall be, and there is hereby established in the said City of Montreal, a body politic and corporate, by the name of *Les Dames Religieuses de Notre Dame de Charité du Bon Pasteur*, which said Corporation shall consist and be composed of the present members of the Institution of the same name herein first above mentioned in the preamble to this Act, that is to say : of Sister *Marie de Ste. Céleste Fisson*, Sister *Marie de Ste. Gabriel Chaffona*, Sister *Marie de St. Ignace Ward*, Sister *Marie de Ste. Alphonse Cadotte*, Sister *Marie de Ste. Euphrosie Perrault*, Sister *Marie de la Présentation Préfontaine*, Sister *Marie de l'Enfant Jésus Bourbonnière*, Sister *Marie de Ste. Thérèse Préfontaine*, Sister *Marie de Ste. Janvier Délinelle*, and of such other persons as shall hereafter, under the provisions of this Act, become members of the said Corporation, according to the By-laws and Rules of the same ; And by the name aforesaid the members of the said Corporation shall have perpetual succession and a common seal, with full power from time to time to alter, renew or change the same at pleasure, and shall by the same name from time to time, and at all times hereafter, be able and capable to purchase, acquire, hold, possess, enjoy, exchange and sell, and to take and receive to them and their successors, for the uses and purposes of the said Corporation, any lands, tenements and hereditaments, and real or immoveable

Preamble.

Les Dames Religieuses, de Notre Dame de Charité du Bon Pasteur, at Montreal, incorporated.

Of whom the Corporation shall consist.

Powers of the Corporation.

Value of property limited.

Majority of members may establish By-laws, &c., for certain purposes.

And perform other acts.

To what purpose only the revenues of the Corporation shall be applied.

Present property of the Institution vested in the Corporation.

Power to appoint attorneys, officers and servants.

Members not personally liable for debts of the Corporation.

immovable property and estate, situate, lying and being within this Province, not exceeding in yearly value the sum of three thousand pounds, currency, and the same to sell, alienate and dispose of, and to purchase others in their stead for the same purpose; and by the said name shall and may be able and capable in law to sue and be sued, implead and be impleaded, answer and be answered unto in all Courts of Law and places whatsoever, in as large, ample and beneficial a manner as any other body politic or corporate, or as any persons able or capable in law may or can sue and be sued, implead and be impleaded, answer and be answered unto in any manner whatsoever; and any majority of the members of the Corporation for the time being, shall have power and authority to make and establish such By-laws, Rules and Regulations, not being contrary to this Act nor to the laws in force in this Province, as shall be deemed useful or necessary for the interests of the said Corporation, and for the management thereof, and for the admission of Members into the said Corporation, and from time to time to alter, repeal and change the said By-laws, Rules and Regulations, or any of them, or those of the said Association in force at the time of the passing of this Act; and shall and may do, execute and perform all and singular other the matters and things relating to the said Corporation and the management thereof, or which shall or may appertain thereto; subject, nevertheless, to the rules, regulations, stipulations and provisions hereinafter prescribed and established.

II. Provided always, and be it enacted, That the rents, revenues, issues and profits of all property, real or personal, held by the said Corporation, shall be appropriated and applied solely to the maintenance of the members of the Corporation, the construction and repair of the buildings requisite for the purposes of the Corporation, the purchase of real and personal property, the establishing of ground rents, the support, care and reformation of female penitents, and the payment of the expenses to be incurred for objects legitimately connected with or depending on the purposes aforesaid.

III. And be it enacted, That all and every the estate, real and personal, belonging to, or hereafter to be acquired by the said members of the said Institution as such, and all debts, claims and rights whatsoever, due to them in that quality, shall be and are hereby vested in the Corporation hereby established; and the By-laws, Rules and Regulations, now made or to be made for the management of the said Institution, shall be and continue to be the By-laws, Rules and Regulations of the said Corporation, until altered or repealed in the manner herein provided.

IV. And be it enacted, That the members of the said Corporation for the time being, or a majority of them, shall have power to appoint such attorney or attorneys, administrator or administrators of the property of the Corporation, and such officers and servants of the said Corporation as shall be necessary for the well conducting of the business and affairs thereof, and to allow to them such compensation for their services, respectively, as shall be reasonable and proper; and all officers so appointed shall be capable of exercising such other powers and authority for the well governing and ordering of the affairs of the said Corporation as shall be prescribed by the Rules, Orders and Regulations of the said Corporation.

V. And be it enacted, That nothing herein contained shall have the effect or be construed to have the effect of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the members of the said Corporation, or any person whatsoever,

whatsoever, individually liable or accountable for or by reason of the said Corporation, or for or on account or in respect of any matter or thing whatsoever relating to the said Corporation.

VI. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are hereinbefore mentioned and provided for.

Rights of the
Crown saved.

VII. And be it enacted, That this Act shall be deemed a Public Act, and shall be publicly taken notice of as such by all Judges, Justices of the Peace, and other persons whatsoever, without being specially pleaded.

Act to be a
Public Act.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. XCII.

An Act to authorize the Community of the Sisters of Charity of the General Hospital, Montreal, (Grey Nuns,) to sell or alienate their property situated at *Pointe à Callières*, in the City of Montreal, and to invest the capital price or prices thereof in other real and immoveable property.

[23d May, 1846.]

WHEREAS the Superior and other Members of the Community of the Sisters of Charity of the General Hospital of Montreal, commonly called Grey Nuns, have by their Petition to the Legislature, prayed that the said Community may be empowered to sell or alienate their property situate at *Pointe à Callières*, or such portion or portions thereof as they may deem fit and expedient to sell, and to invest the price or prices thereof in other real and immoveable property; And whereas it is expedient to grant the prayer of the said Petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful to and for the said Sisters of Charity of the General Hospital of Montreal, to sell or alienate the property by them held, and situate at *Pointe à Callières*, in the said City of Montreal, consisting of a piece or parcel of land of an irregular figure, bounded in front to the north-west by Foundling Street, in the rear towards the south-east partly by Messieurs Cringan and Logan, and partly by Commissioners' Street, on one side to the south-west by Grey Nuns' Street, and on the other side to the north-east by Messieurs O. Berthelet, F. X. Beaudry, H. Paré, and others, with the House or Convent, the Chapel, and several other buildings thereon erected; and to sell or alienate, at any time they may deem fit and expedient after the passing of this Act, such portion or extent, or such number of lots or emplacements as they may think useful and proper to sell out and from their property hereinbefore described, the whole for prices or sums of money payable forthwith or at any terms which may be agreed upon, or remaining on *constitut* in the hands of the purchasers; and to receive the prices of such sales or alienations and the capital amount of the *constituts*.

Preamble.

The Grey Nuns authorized to alienate certain property.

Description of the property.

They may receive the purchase money or the capital of *constituts*.

They may acquire other property in the place of that sold.

II. And be it enacted, That it shall be lawful to and for the said Sisters of Charity of the General Hospital of Montreal, to purchase and acquire at any time after the passing of this Act, other real and immoveable property, or any *constituls* or ground rents secured upon real and immoveable property, to the whole amount of the capital prices or sums of money derived from the sale or sales of their aforesaid property; and the said real and immoveable property, *constituls* or ground rents afterwards to sell or alienate in the same manner as aforesaid; anything in the laws commonly called the Laws of Mort-main, or in any Act or Law to the contrary notwithstanding.

They shall submit accounts to the Governor, &c., when required.

III. And be it enacted, That the said Sisters of Charity of the General Hospital of Montreal, shall, when they may be thereunto required by the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, lay before him, or before such Officer or Officers as he shall appoint, a statement of such sales or alienations and of such purchases or acquisitions as they shall have made or executed under the authority of this Act, and of such capital sum or sums of money as they shall have received, arising from such sales or alienations by them made under the authority of this Act as aforesaid.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO NONO
VICTORIÆ REGINÆ.

C A P., XCIII.

An Act to repeal the Act incorporating the Quebec Gas-light and Water Company.

[23rd May, 1846.]

WHEREAS it is expedient to repeal a certain Act of the Legislature of this Province, passed in the Session held in the sixth year of Her Majesty's Reign, and intituled, *An Act to incorporate a Company under the style and title of "The Quebec Gas-light and Water Company"*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act cited in the Preamble to this Act be, and the said Act is hereby repealed.

Preamble.

6 Vict. c. 23,
cited.

The said Act
repealed.

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ANNO NONO
VICTORIÆ REGINÆ.

CAP. XCIV.

An Act to incorporate *The Cobourg Manufacturing Company.*

[9th June, 1846.]

WHEREAS the several persons hereinafter named, have by their humble Petition represented that they are desirous of being formed into an Incorporated Joint Stock Company in the Town of Cobourg, in the District of Newcastle, in this Province, to be called *The Cobourg Manufacturing Company*, with power to raise the Capital and to do such other acts as are necessary for accomplishing that purpose; And whereas, it is expedient to grant the prayer of the said Petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Patrick Wallace, Stuart E. Mackecknie, William Tremain, Ebenezer Perry, William Weller, J. Vance Boswell Darcy, E. Boulton, William Granby, John C. Boswell, Thomas Scott, Henry Ruttan, Asa A. Burnham, Henry H. Jackson, and all and every such other person and persons, body and bodies politic or corporate, as shall under the authority of this Act be associated with them and their several and respective successors, executors, administrators and assigns, shall be a body politic and corporate, by the name of *The Cobourg Manufacturing Company*, and by that name shall and may have perpetual succession and a common seal, with power to break and alter the same, and by that name shall and may sue and be sued, implead and be impleaded, in all Courts of Law or Equity in this Province.

Preamble

Certain persons incorporated as "*The Cobourg Manufacturing Company.*"

Certain corporate powers conferred on them.

II. And be it enacted, That the said Corporation shall be and they are hereby authorized to lay out and invest their capital or any part thereof in carrying on the manufacture of Paper or other manufactures, and in the doing, purchasing, or providing whatsoever shall be requisite or expedient for the interests of the said Corporation in carrying on such manufactures, and for no other purpose whatsoever.

To what purposes the Company may apply their capital.

III. And be it enacted, That it shall be lawful for the said Corporation to acquire by purchase, lease, or otherwise, and to hold absolutely or conditionally any land, tenements, real or immoveable estate for the convenient conduct and managing of the business of the said Corporation not exceeding the yearly value of twelve hundred pounds, currency, and to sell, alienate, let, release, and dispose of the same, and others to acquire in their stead not exceeding the value aforesaid.

Power to hold lands, &c., for the business of the Company, and to a certain amount.

IV.

Capital
£12000, in
shares of £12
10s. each.

IV. And be it enacted, That the capital of the said Corporation shall not exceed the sum of twelve thousand pounds, currency, and shall be divided into shares of twelve pounds ten shillings, currency, each, which shares shall be held to be personal estate and property.

Who shall be
Proprietors
of the stock of
the Company.

V. And be it enacted, That all and every person and persons, body and bodies politic or corporate, by or from whom any subscription or payment shall have been, or shall be made or accepted towards the raising of the capital of the said Corporation, and their several and respective successors, executors, administrators and assigns, (no such subscription being for less than twelve pounds ten shillings, currency), shall have and be entitled to a share or shares of and in the capital of the said Corporation in proportion to the sums they shall have so subscribed, and shall have and be entitled to a proportionate share of the profits and advantages attending the business and undertakings of the said Company, and shall be Proprietors of and in the same.

Register Book
of Share-
holders to be
kept in dupli-
cate and au-
thenticated.

VI. And be it enacted, That the said Corporation shall keep a book in duplicate to be called the Register Book of Shareholders, and in such book shall be fairly and distinctly entered the names of the several Corporations and the names and additions of the several persons being Shareholders of the said Corporation, the number of Shares to which such Shareholders shall be respectively entitled or which shall have been by them sold and transferred, and the amount of subscriptions paid on such shares respectively, and such book shall be authenticated by the common seal of the said Corporation being affixed thereto, and shall be numbered and authenticated by the initials of any President of the said Corporation on each and every page or leaf.

Shareholders
may obtain
certificates of
the shares they
are entitled to.

VII. And be it enacted, That on demand of the holder of any share the said Corporation shall cause a Certificate of the Proprietorship of such share to be delivered to such Shareholder, and such Certificate shall have the common seal of the said Company and the signatures of the President or acting President and Secretary of the Company affixed thereto, and shall specify the number of shares to which such Shareholder, is entitled at the time of delivering such Certificate, and shall be in the form of the Schedule A. to this Act annexed or to the like effect.

Transfer of
shares how
made.

VIII. And be it enacted, That any Shareholder may sell and transfer his, her or their share or shares by a written assignment thereof under his hand, in the form of the Schedule B, or by a Notarial Deed, which assignment or Deed or a duplicate or notarial copy thereof shall be delivered to the Secretary of the Corporation, who shall retain the same and shall enter a note thereof in the Register Book of Shareholders.

Calls upon the
Shareholders;
the amount,
&c., at what
intervals, they
may be made.

IX. And be it enacted, That from time to time the said Corporation may make such calls of money upon the respective Shareholders in respect to the amount of capital respectively subscribed or owing by them as they shall think fit, provided that thirty days' notice at the least be given of each call in any newspaper published in the District of Newcastle, and also by a circular delivered at the usual place of residence or business of each Shareholder resident or being within the said District, or of the known Agent of such Shareholder, or forwarded to him by Post, and provided that no call shall exceed the amount of twenty-five per cent. per share, and that successive calls be not made at less than the interval of three months, and the several Shareholders shall be liable to pay the amount of the calls so made in respect of the shares held by them respectively,

And for what
amount at any
one time.

respectively, to the persons and at the times and places from time to time appointed by the said Corporation.

X. And be it enacted, That if upon or before the day appointed for the payment thereof any Shareholder do not pay the amount of any call to which he, she or they may be liable, then such Shareholder shall be liable to pay legal interest upon the same from the day so appointed to the time of the actual payment, and may be sued both for the amount of the said call and of the interest thereon in any Court of Law or Equity having competent jurisdiction : Provided always, that in any suit or action to be brought by the said Corporation against any Shareholder, it shall not be necessary to set forth the special matter, but it shall be sufficient for the said Corporation to declare that the Defendant is a holder of one share or more in the said Corporation and is indebted for arrears of payments due on such share or shares to the said Corporation in the sum of money to which the call or calls in arrear (with interest if any) shall amount, nor shall it be necessary to prove the appointment of the President or of the Directors of the said Corporation who made such call or calls.

Mode of recovering arrears from Shareholders.

Proviso as to the evidence in any such action.

XI. And be it enacted, That if the holder of any share or shares shall fail to pay any call payable in respect thereof, together with the interest, if any, as aforesaid, the Directors may at any time after the expiration of three months from the day appointed for payment of said calls, declare such share or shares forfeited, whether the amount of such call and interest have been sued for or not, and may sell the same by public auction after notice given in the manner laid down for giving notice of calls in the ninth section of this Act.

Forfeiture of shares for non-payment and sale by auction.

XII. And be it enacted, That a declaration in writing, made and signed by the President or acting President of the said Company before any Justice of the Peace for the District of Newcastle, (which declaration such Justice shall certify,) that the call in respect of a share was made and notice thereof given, and that default in payment of the call (and interest if any) was made, and that the forfeiture of the share was declared and confirmed in manner hereinbefore prescribed, and that such share was accordingly sold by public auction to the party named in such declaration, shall be sufficient evidence of the facts therein stated, and such declaration and the receipt of the Secretary of the said Corporation for the price of such share shall constitute a good title to such share, and thereupon the purchaser shall, on the entry of such declaration and receipt in the said Register Book of Shares, be deemed the proprietor thereof, and any such declaration made in like manner shall, on proof or admission of the signature of such Justice of the Peace, be received in any Court in this Province as evidence of such call and notice in any action for the amount due by any Shareholder on any call or calls.

Title of the new holder of forfeited share, how made.

XIII. And be it enacted, That the said Corporation shall not sell or transfer any greater number of the shares of any such defaulter than will be sufficient as nearly as can be ascertained at the time of the sale to pay the arrears then due by such defaulter on account of any calls and interest thereon, and of the expenses attending such sale and declaration of forfeiture, and if the money produced by the sale of any such forfeited share be more than sufficient for the above purpose, the surplus shall, on demand, be paid to the defaulter.

Surplus produce on sale of defaulter's share, shall be repaid to him.

Liability of
Directors, and
Shareholders
respectively.

XIV. And be it enacted, That each and every of the Directors of the said Corporation shall either jointly with one or more of such Directors or severally be liable to the payment and satisfaction in full of all debts and liabilities incurred by or on account of the said Corporation while such Director or Directors was or were in office, but from the time any such Director or Directors shall cease to hold such office, he or they shall be liable only as a Stockholder or Stockholders for debts contracted after he or they cease to be such Director or Directors, and that each Stockholder not being a Director or not being liable as having been a Director as aforesaid, shall only be liable to the amount of Stock subscribed or held by him.

Power to mort-
gage and bor-
row money.

XV. And be it enacted, That it shall be lawful for the said Corporation to borrow on mortgage, hypothecation or bond, such sum or sums of money as shall be authorized at a general meeting of Shareholders not exceeding in the whole (exclusive of the capital hereinbefore authorized) a sum of money equal to two-thirds of the amount of Capital Stock paid up, and for securing the repayment of the same with interest to hypothecate or mortgage all or any of the lands, tenements, real and immoveable estate of the said Corporation, and to give and execute bonds, hypothecs and mortgages for that purpose.

Shareholders
to elect seven
Directors.

Proviso.
Qualification
of Directors.

XVI. And be it enacted, That it shall be lawful for the Shareholders in the said Corporation at a General Meeting to be held for that purpose in manner hereinafter provided, by a majority of votes to elect from among themselves seven Directors of the said Corporation: Provided always, that the Directors of the said Corporation originally elected under the provisions of this Act, or subsequently elected in their stead, or elected for the purpose of filling any vacancies and forming at any time the Board of Directors of the said Corporation, shall be possessed each individually of at least ten shares therein and collectively of shares to the amount of at least one fourth of the stock of the said Corporation.

Number of
votes to which
each Director
shall be enti-
tled.

XVII. And be it enacted, That at all Meetings of the Directors, each Director shall be entitled to vote according to the following scale, that is to say: each Director holding one and not more than three shares shall have one vote, and an additional vote for every three shares beyond such first three.

Contractor
with Company
cannot be a
Director.

XVIII. And be it enacted, That no person shall be capable of being a Director of the said Company, if he be interested directly or indirectly in any contract with the said Company.

Act not to go
into effect until
half the capital
has been paid
up.

XIX. And be it enacted, That before this Act shall have effect and the said Company be operative, evidence satisfactory to the Governor of this Province, or person administering the Government thereof for the time being, shall be laid before him, that the requirements of this Act have been *bonâ fide* complied with, and that one half at least of the said capital sum of twelve thousand pounds has actually been paid up by the Subscribers or Stockholders of the said Company, and at the disposal of the Directors thereof for the purposes of the Company, in accordance with this Act, and notice thereof given in the *Canada Gazette* published by authority.

Notice to be
given in the
*Canada Ga-
zette*.

Powers of Di-
rectors, in the
management

XX. And be it enacted, That the Directors of the said Corporation shall have the management and superintendence of its affairs, and may lawfully exercise all its powers and

and may elect from among themselves a President of the said Corporation, and shall fill up any vacancy that may occur in the Board of Directors by death, resignation, disqualification or absence from the District, by election from among the Shareholders, and may ordain, establish and put in execution such By-laws, Rules and Regulations not being repugnant to the Laws of this Province, nor inconsistent with the true intent and meaning of this Act, as may be expedient for the management of the said Corporation, its business and affairs, and may from time to time alter and repeal the same, and also may use and affix or cause to be used and affixed the common seal of the said Corporation to any documents which in their judgment may require the same, (and any Act or Deed bearing such seal and signed by the President or by any two Directors, and countersigned by the Secretary, and no other, shall be held to be the Act and Deed of the Corporation,) may fix the salaries and remuneration of the Officers, Agents and servants of the said Company, may make any payments and enter into any contracts for the execution of the purposes of the said Corporation, and for all other matters necessary for the transaction of its affairs; may generally deal with, treat, purchase, lease, sell, let, release, and dispose of, and exercise all acts of ownership over the lands and tenements, property and effects of the said Corporation; may institute and defend in the name of the said Corporation, all suits at law; and may from time to time appoint and displace the Officers, Agents, and servants of the said Corporation.

of the business
of the Com-
pany.

President.

By-laws.

Common Seal.

Officers.

Contracts.

Sales of pro-
perty.

XXI. And be it enacted, That it shall be incumbent upon the said Corporation to publish lists annually under oath of the President or acting President, of the names of all and each of the Stockholders who may hold shares in the stock of the said Corporation, distinguishing those who are Directors, and stating the number of shares held by each Shareholder, and also a statement or account of the affairs, assets and liabilities thereof, mentioning especially the sum or amount paid up, and in the hands and at the disposal of the said Corporation, and also to lay copies of the same before the Legislature within the first fifteen days of each session.

Annual Lists
of Stockhold-
ers, and ac-
counts to be
published, and
laid before the
Legislature.

XXII. And be it enacted, That in any action, suit, demand or proceeding, against the said Corporation in any competent Court of Law or Equity, service of the Summons, Writs or Process of Court issuing in any such action, suit, or demand, at the ordinary office or counting-house of the said Corporation or of the President or Secretary thereof, shall be a sufficient service thereof on the said Corporation to hold the said Corporation to appear and plead to such action, suit or demand, or for such other purpose as to law may appertain.

What shall be
deemed service
of Process
against Corpo-
ration.

XXIII. And be it enacted, That the Directors of the said Corporation shall and may hold meetings at such times and places as they shall appoint for the purpose, and may meet and adjourn as they shall think proper, and at any time the President or any two of the said Directors may require a General Meeting of Shareholders to be called for any purpose that may be deemed necessary; and in order to constitute a Meeting of Directors, there shall be present at least a majority of their number, and all questions shall be determined by a majority of votes, and the President shall have the casting vote in addition to his vote as a Director.

Meetings of
Directors.

XXIV. And be it enacted, That no act done by any General Meeting of Shareholders of the said Corporation, or by the Directors thereof, shall be invalidated by any defect

Irregularity
not to invali-
date.

defect or irregularity in the qualification or election of any Shareholder or Director concerned therein.

Public Act. XXV. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such.

SCHEDULE A.

COBOURG MANUFACTURING COMPANY.

This is to certify that A. B., of C., yeoman, is at this day a proprietor of shares in the Cobourg Manufacturing Company, of twelve pounds ten shillings each, and that the said A. B., his successors, executors, administrators and assigns is and are entitled to the profits and advantages thereof.

Given under our Hands and the Common Seal of the said Corporation, at
this day of
in the year of Our Lord, one thousand eight hundred and forty-

D. E., President.
F. G., Secretary.

L. S.

SCHEDULE B.

COBOURG MANUFACTURING COMPANY.

For value received, I hereby assign to of
shares in the Stock of the Cobourg Manufacturing
Company, subject to the By-Laws, Rules and Regulations of the said Corporation.

Witness my Hand, this day of
one thousand eight hundred and forty-

A. B.

I hereby accept the assignment of the shares above mentioned, subject to the By-Laws, Rules and Regulations aforesaid.

Witness my Hand, this day of
one thousand eight hundred and forty-

C. D.



A N N O N O N O
V I C T O R I Æ R E G I N Æ.

C A P. X C V.

An Act to Incorporate *The British and Canadian School Society of the District of Quebec.*

[9th June, 1846.]

WHEREAS there has existed in the City of Quebec, since the year one thousand eight hundred and twenty-three, an Association known by the name of *The British and Canadian School Society of the District of Quebec*, established for the purpose of providing civil and religious instruction for the children of the poor of the said City ; And whereas the persons hereinafter named, being the Members and Officers of the said Association, have by their Petition, represented that they have afforded a gratuitous education to three thousand five hundred children, and that they have also, under special Legislative sanction, qualified forty-five Teachers for the country parts, and have, in and by the said Petition, prayed that, for the public advantage and the enhancement of the efficiency of the said Society, the said Association may be incorporated under proper Regulations, and it is expedient to grant the prayer of their Petition : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intitled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Jeffrey Hale, Joseph Parant, Thomas Rae, Benjamin Tremain, Peter Langlois, John Musson, John McLeod, Alexander Haddan, Edward Montizambert, William H. A. Davies, George Henderson, Henry Carwell, Richard Peniston, Christian Wurtele, James Clearihue, John Munn, Edward Glackemeyer, William Wurtele, the present Officers and Members of the said Association, and such other persons as now are or shall hereafter become Members of the said Association, according to the Rules and Regulations thereof, shall be and they are hereby constituted a body politic and corporate, by the name of *The British and Canadian School Society of the District of Quebec*, and shall by that name, have perpetual succession and a common seal, with power to alter, renew, or change the same at pleasure, and shall, by the same name, at all times hereafter have power to purchase, acquire, hold, possess and enjoy, take, accept and receive, for the use and purposes of the said Corporation, any lands, immoveable property or hereditaments, or any personal property of what nature whatsoever, within this Province, not exceeding in yearly value the sum of five hundred pounds, currency, and the same to sell, alienate, and dispose of and others in their stead to purchase, acquire and hold, for the

Preamble.

Names of the present officers and members.

The same and their successors incorporated.

Corporate name and powers.

Amount of property limited.

the uses and purposes aforesaid ; and the said Corporation may, by the said name, sue and be sued in all Courts of Law or Equity, or other places whatever, in as large, ample and beneficial a manner as any other body politic or corporate in this Province, and shall have power and authority to make By-laws, Rules and Regulations, not being contrary to this Act or to the Laws of this Province, for the government and management of the said Corporation and of the affairs and property thereof, and for the admission of Members thereof, and for all other purposes relating to the well-being and interests of the said Corporation, and the same to amend, alter, or repeal, from time to time, in such manner as they shall deem necessary or expedient.

Corporation may make By-laws.

Officers of the Corporation.

To be elected annually.

Proviso as to case of non-election.

II. And be it enacted, That the Officers of the said Corporation shall be a President, two Vice Presidents, a Secretary and a Treasurer ; and the affairs and business of the said Corporation shall be managed by a Committee to be composed of not less than ten, nor more than twenty members of the Corporation and the Officers aforesaid, who shall always be Members of the said Committee ; and the said Officers and other Members of the Committee shall be annually elected by the majority of the votes (to be given by ballot) of the Members of the Corporation present at a meeting to be held for that purpose, on the first Monday in the month of January in each year, unless that day be New-Year's Day, in which case the said meeting shall be had on the Monday following : Provided always, that if the election be not had on that day, the Corporation shall not be dissolved, but the election may be had at a special meeting thereafter to be called for that purpose, in the manner hereinafter provided, and in that case the Officers and Members of the Committee in office immediately before the said day, shall continue in office until their successors shall be elected.

President or either of the Vice Presidents may call special meeting.

III. And be it enacted, That the President, or, in his absence, either of the Vice Presidents, may, at any time, on a requisition to him made, and signed by any five Members of the Corporation, call a Special General Meeting of the Members of the Corporation, giving notice of such meeting and of the object thereof to each of the Members, in such manner as may be provided for that purpose by the By-laws of the Corporation, and at such Special General Meeting no other subject shall be discussed and decided upon except such as may necessarily relate to the object for which the meeting shall have been called.

Property belonging to the present Association vested in the said Corporation, which shall be liable for claims on the Association.

And its By-laws made those of the Corporation until altered.

IV. And be it enacted, That all and every the estates and property, real or personal of the said Association, at the time of the passing of this Act, and all debts due to, or rights or claims possessed by the said Association at the said time, shall be and are hereby transferred to and vested in the Corporation hereby constituted, which shall in like manner be liable to and for all debts due by or claims upon the said Association ; and the Officers and Members of the Committee in office at the time of the passing of this Act, shall be the Officers and Members of the Committee of the said Corporation, as if elected under this Act, until their successors shall be elected in the manner hereby appointed ; and the By-Laws, Rules and Regulations of the said Association, at the time of the passing of this Act, shall be the By-Laws, Rules and Regulations of the said Corporation, as if made under the provisions of this Act, until they be amended, altered or repealed, in the manner hereinbefore provided.

Minors may not be members of the Corporation.

V. And be it enacted, That no person shall be a Member of the said Corporation unless such person shall have attained the full age of twenty-one years, and shall have been

been admitted as such in the manner prescribed by the By-Laws, Rules and Regulations of the Corporation then in force in that behalf.

VI. And be it enacted, That no By-Law, Rule or Regulation of the said Corporation shall be amended, altered or repealed, except with the consent of two-thirds of the Members of the Corporation, nor unless previous notice of such amendment, alteration, or repeal shall have been given in writing at the general meeting next preceding that at which such amendment, alteration or repeal shall be discussed and determined upon.

No By-law of the Corporation to be amended without consent of two thirds of the members of the Corporation, &c.

VII. And be it enacted, That nothing herein contained shall have the effect of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the Members of the said Corporation, or any person whatsoever, individually liable or accountable for or by reason of any debt, contract or security of the said Corporation, or for or on account or in respect of any matter or thing whatsoever relating to the said Corporation.

Individual members not to be liable for the debts of the Corporation.

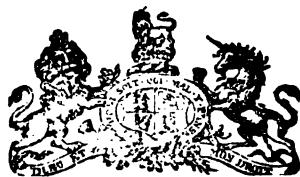
VIII. And be it enacted, That nothing herein contained shall affect or be construed to affect, in any manner or way, the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are hereinbefore mentioned and provided for.

Rights of the Crown and of others saved.

IX. And be it enacted, That this Act shall be deemed a Public Act, and shall be publicly taken notice of as such by all Judges, Justices of the Peace, and other persons whomsoever, without being specially pleaded.

Public Act.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. XCVI.

An Act to amend the Act of Lower Canada therein mentioned, extending certain privileges to persons of the Jewish persuasion.

[9th June, 1846.]

WHEREAS the provisions of a certain Act of the Provincial Parliament of the late Province of Lower Canada, passed in the ninth year of the Reign of King George the Fourth, and intituled, *An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed*, have proved insufficient for several of the purposes for which the said Act was intended, and it has been found necessary to make further provisions for the said purposes; and whereas divers persons of the Jewish faith, calling themselves Portuguese Jews, and also divers persons of the Jewish faith calling themselves German and Polish Jews, are and for a considerable length of time have been, in possession of Synagogues in the City of Montreal, and form separate Congregations under the names of the Congregation of Portuguese Jews of Montreal, and of the Congregation of German and Polish Jews of Montreal: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this Act it shall be lawful for the said persons of the Jewish faith, calling themselves Portuguese Jews, or for the said persons calling themselves German and Polish Jews, being inscribed and registered in the manner provided by the aforesaid Act, and being members respectively of the said Synagogues, or any ten or more of them, to assemble or meet together from time to time at their respective Synagogues on such day and at such hour as they shall see fit, of which previous notice of at least three entire weeks shall be given in writing to each member, and shall be affixed on the outside of the principal door of the said Synagogues respectively; and the said members of the said respective Congregations so assembled at their respective Synagogues shall elect from among themselves a President, Treasurer, Secretary and three Trustees of their Congregation, and shall record and enter all proceedings had in a register to be kept for that purpose by the said respective Secretaries.

Preamble.

Act of L. C.
9 Geo. 4. c. 75,
cited.

The Portuguese Jews or Polish Jews holding seats in certain Synagogues respectively may meet and elect Trustees, &c.

Due notice to be previously given.

Proceedings to be recorded.

II.

Trustees to be
Corporations
with certain
corporate
powers.

Corporate
name.

Property li-
mited: other
powers.

Rabbi appoint-
ed under this
Act need not
have a license
from the Go-
vernor.

II. And be it enacted, That the said President, Trustees, Treasurer and Secretary of each of the said Congregations, respectively, elected and appointed in the manner provided by this Act, shall be a body corporate and politic under the name and description of the *Corporation of the Portuguese Jews of Montreal*, or of the *Corporation of the German and Polish Jews of Montreal*, as the case may be, and by that name may sue and be sued, and may contract and be contracted with, and may hold estate and property, moveable and immoveable, not exceeding four hundred pounds per annum of yearly value, free and clear of all charges, and shall have perpetual succession and a common seal, with power to change the same at pleasure, and may appoint and induct the Rabbi or officiating Minister of the Synagogue or Congrégation, and him at pleasure may remove, and appoint and induct another in his place at all times hereafter; and such Rabbi or officiating Minister, being so appointed and complying with the other provisions of the Act first above cited, shall not need to obtain a license from the Governor or person administering the Government, and shall nevertheless have all the powers conferred by the said Act on Ministers so licensed.

Mode of elect-
ing successors
to the first
members of
the Corpora-
tion, &c.

How vacancies
shall be filled.

III. And be it enacted, That the election and appointment of the said President, Trustees, Treasurer and Secretary shall be and enure for the full end and term of one year and no more, at the expiration of which period they shall be replaced by others to be elected and named in the manner aforesaid, or may be re-elected; and if any one or more of the said President, Trustees, Treasurer or Secretary shall die naturally or civilly, or cease to be resident in the District of Montreal within the said period of one year for which he shall have been so elected, then and in such case another person shall be elected in the manner aforesaid, in the room and place of the person who shall have so died or ceased to be a resident as aforesaid, and shall continue in office until the expiration of the term during which his predecessor had been appointed to serve.

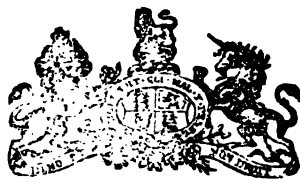
Property held,
&c., for the
use of either
Synagogue,
to vest in the
Corporation of
such Syna-
gogue.

IV. And be it enacted, That all legacies, gifts or bequests heretofore made by any person or persons, body or bodies politic or corporate, to or for the use, benefit or behalf of either of the said Jewish Synagogues or Congregations, shall be vested in the particular Synagogue or Congregation established as a Corporation by this Act, in favor of which any such legacy, gift, or bequest may have been made, and shall be considered as part and parcel of the estate, moveable and immoveable, as the case may be, which the said Corporation are hereby empowered to hold and possess; provided the whole immoveable property held by the said Corporation do not exceed the yearly value aforesaid.

Parts of 9 G.
4. c. 75, incon-
sistent with
this Act, re-
pealed.

V. And be it enacted, That so much of the said Act first above cited, or of any other Act or Law, as may be inconsistent with the provisions of this Act, shall be, and is hereby repealed

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ANNO NONO
VICTORIÆ REGINÆ.

CAP. XCVII.

An Act to revive and extend an Act of the Parliament of Upper Canada, third Victoria, chapter thirty-three, intituled, *An Act to incorporate certain persons under the name and style of the President, Directors and Company of the Bronté Harbour.*

[18th May, 1846.]

WHEREAS by the sixteenth section of An Act of the Legislature of Upper Canada passed in the third year of the Reign of Her Most Gracious Majesty Queen Victoria, and intituled: *An Act to incorporate certain persons under the name and style of the President, Directors and Company of the Bronté Harbour*, it was enacted, that unless the said Company should begin the said Harbour within two years and complete the same within five years from the passing of the said Act, the said Company should lose all benefit of the said Act and the privileges and powers thereby conferred; And whereas it appears that the said Company began the said Harbour within the time specified in the said Act, but have not been able to complete the same within the required time; And whereas the President, Directors and Company of the said Harbour have by their Petition humbly prayed that the said Act may be revived, and the period for completing the said Harbour be extended: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said Act shall be and is hereby revived, continued and confirmed, with the exception of the sixteenth section thereof; and notwithstanding any failure on the part of the said Company to finish the said Harbour within the said period of five years, the said Act shall be revived and shall remain in full force and effect, and the Corporation shall continue as if the said sixteenth section of the said Act had not formed part thereof; and the said sixteenth section is hereby repealed.

Preamble.

Act of U. C.
3 Vict. c. 33,
cited.

The said Act
continued, ex-
cept the 16th
section, which
is hereby re-
pealed.

II. And be it enacted, That if the said Company shall not, and do not, within five years from the passing of this Act construct, make and finish the said Harbour so that the same may be accessible to, and fit, safe and commodious for the reception of vessels of such description and burthen as commonly navigate Lake Ontario, then the rights and privileges of the said Company under the said Act and under this Act, and the said Acts respectively, shall cease and be utterly null and void; anything in either of the said Acts contained to the contrary thereof in any wise notwithstanding.

Harbour to be
finished within
five years, on
pain of forfei-
ture of this
Act.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. XCVIII.

An Act to incorporate certain persons as *The Trafalgar, Esquesing and Erin Road Company*.

[18th May, 1846.]

WHEREAS certain inhabitants of the Townships of Trafalgar, Esquesing and Erin, have petitioned for the passing of a law incorporating a Joint Stock Company, for the purpose of constructing a Plank or Macadamized Road from Oakville on Lake Ontario to the rear part of the Township of Erin, with power to extend the same; And whereas it is expedient to incorporate a Joint Stock Company for the purpose aforesaid, with the powers and under the provisions hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That John Urquhart, Charles Reynolds, Hiram Post, John A. Chisholm, William Downs, Charles Bigger, Thomas Fyfe, George Kennedy, F. W. Watkins, John Stewart, Joseph Standish, James Reid, James Appelbe, Thomas S. Harris, William Robertson, John Bussel, Joseph Bell, Robert K. Chisholm, William Barber, William Stul, Peter Barnes, William Clay, and George Hawkins, with all such other persons as shall become Stockholders in such Joint Stock or Capital, as is hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic, in fact by and under the name and style of *The Trafalgar, Esquesing and Erin Road Company*, and by that name they and their successors shall and may have continued succession, and by such name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and concerns whatsoever; and they and their successors may and shall have a Common Seal, and may change and alter the same at their will and pleasure, and also that they and their successors, by the same name of *The Trafalgar, Esquesing and Erin Road Company*, shall be by law capable of purchasing, having and holding to them and their successors, any estate, real or personal, or mixed, to and for the use of the said Company, and of letting, conveying, and otherwise departing therewith, for the benefit and on account of the said Company, from time to time, as they shall deem necessary and convenient: Provided always, nevertheless, that the real estate to be held by the

Preamble.

Certain persons and their successors incorporated as *The Trafalgar Esquesing and Erin Road Company*.

Corporate powers.

proviso: said

Value of real estate limited.

said Company shall be only such as shall be required to be held by them for the purpose of making, using and preserving the said Plank or Macadamized Road, and for objects immediately connected therewith.

Their powers to construct the said road, within certain limits.

II. And be it enacted, That the said Company and their Agents or Servants shall have full power under this Act, to lay out, construct, make and finish a Plank or Macadamized Road, at their own costs and charges, on and over that part of the country in the Townships of Trafalgar and Esquesing, in the District of Gore, and the Township of Erin, in the District of Wellington, that is to say, from the Town of Oakville on or near the present public road generally known as *Posts Road*, and thence between lots numbers twelve and thirteen, through the old Survey, and between the seventh and eighth Concessions through the new Survey of the said Township of Trafalgar, between the seventh and eighth Concessions through the said Township of Esquesing, and between the seventh and eighth Concessions through the said Township of Erin.

May construct Branches from the same.

III. And be it enacted, That the said Company and their Agents or Servants shall have full power and authority under this Act, to lay out, construct, make and finish an additional Branch from the said direct line of road to the eastern or western boundaries of each of the said Townships, respectively, and at such points and places as the said Company shall deem expedient; and also to lay out, construct, make and finish an additional branch from the said direct line of road in the Township of Erin to any point in the Township of Garrafraxa and Eramosa, so as to connect with the Owens Sound Road.

Company may contract, &c., with land-owners.

IV. And be it enacted, That the said Company are hereby empowered to contract, compound, compromise and agree with the owners and occupiers of any lands upon which they may determine to construct the said Plank or Macadamized Road, either by purchase of so much of the said land and privileges as they shall require for the purposes of the said Company, or for the damages which he, she or they shall and may be entitled to receive of the said Company, in consequence of the said intended road being made and constructed in and upon his, her or their respective lands; and in case of any disagreement between the said Company, and the owner or owners, occupier or occupiers, as aforesaid, it shall and may be lawful, from time to time, for each owner and occupier so disagreeing with the said Company, either upon the value of the lands and tenements or private privileges proposed to be purchased, or upon the amount of damages to be paid to them as aforesaid, to nominate and appoint one or more indifferent person or persons, and for the said Company to nominate an equal number of indifferent persons who, together with one other person to be elected by ballot by the persons so named, shall be Arbitrators, to award, determine and adjudge, and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same.

In case of disagreement Arbitrators to be appointed.

Appointment of Arbitrators in case the party shall neglect or be unable to appoint.

V. And be it enacted, That if after eight days' notice in writing, given to the party so disagreeing as to the value aforesaid, such party shall not nominate or appoint an Arbitrator or Arbitrators as aforesaid on his part, or if such owner or occupier shall be a minor, then, and in any such case, the Judge of the District Court of the District in which the land is situate shall and may nominate and appoint one or more Arbitrator or Arbitrators on their behalf, with the same powers and authority as if appointed by the party or parties so refusing or neglecting to appoint an Arbitrator or Arbitrators in his or their behalf, and to meet and ballot for the additional Arbitrator or Umpire.

VI.

VI. And be it enacted, That the Arbitrators so appointed shall fix a convenient day for hearing the respective parties, and shall give eight days' notice at least of the day and place, which notice shall be in writing and served on each party respectively, and having heard the parties, or otherwise examined into the merits of the matters so brought before them, the said Arbitrators, or a majority of them, shall make their award or arbitrament thereon in writing, which award or arbitrament shall be final as to the value so in dispute as aforesaid.

Duty of Arbitrators.

VII. And be it enacted, That if the party so disagreeing, refuse to accept the value of land or damage so ascertained by the Arbitrators as aforesaid, till the end of the second term in Her Majesty's Court of Queen's Bench, in that part of the Province formerly Upper Canada, next after making of the award and tender of the value thereby ascertained, then and in such case the Directors for the time being shall be at liberty and shall have full power to occupy the piece of land so valued by the said Arbitrators, in the same manner as other portions of the said road.

At the end of two terms after tender of award, Directors may take possession of land.

VIII. And be it enacted, That in any action of ejectment or other action, real, personal or mixed, for or on account of such occupation by the said Company, their servants or agents, or other person or persons using the said Road, the said award shall and may be pleaded in bar of such action at any time after the said two terms in the said Court of Queen's Bench, notwithstanding any defect in form or substance in the said award : Provided always, that it shall and may be lawful to and for the party or parties interested in the land mentioned in the award, or their agent, by counsel, at any time within the two terms as aforesaid, after the same hath been made and the amount of the value awarded tendered, to move the said Court of Queen's Bench to set aside such award, for corruption, or any other matter or thing for which awards are now subject to be impugned by law : Provided also, that if the first award be so set aside by the Court of Queen's Bench, the matter in difference may again be submitted to other Arbitrators, and so on till a satisfactory award be made between the parties.

And may plead award in bar of action of ejectment.

Proviso : Appeal to Court of Q. B. given : award may be set aside for cause.

Proviso : A new award to be had.

IX. And be it enacted, That the said Company shall have full power and authority to explore the country lying between the Town of Oakville on Lake Ontario, and the rear part of the Township of Erin, and to designate and establish the said intended line of road, and it shall be lawful for the said Company to take, appropriate, have and hold, to and for the use of them and their successors, the requisite lands upon the line and within the boundaries of the said Plank or Macadamised Road hereby authorized to be constructed ; and for the purpose aforesaid, the said Company and their agents, servants and workmen are hereby authorized and empowered to enter into and upon the lands and grounds of or belonging to the Queen's Majesty, Her Heirs or Successors, or to any other person or persons, bodies politic or corporate, and to survey and take levels of the same or any part thereof, and to set out and ascertain such parts thereof as they shall deem necessary and proper for making the said Road, and all such matters and conveniences as they shall think proper and necessary for making, effecting, preserving, completing, and using of the said intended Road ; and also to make, build, erect and set up, in and upon the said route of the Road aforesaid, or upon the land adjoining or near the same, all such works, ways, roads and conveniences as the said Company shall think convenient and necessary for the purposes of the said Road, and also from time to time to alter, repair, amend, widen, or enlarge the same or any other of the conveniences above mentioned, as well for carrying or conveying goods, commodities,

Power given to explore the country and to set out and hold the land requisite for the said road.

To erect necessary Works.

Getting and
placing mate-
rials.

commodities, timber and other things, to and from the said Road, as for the carrying and conveying all manner of materials necessary for making, erecting, furnishing, altering, repairing, amending, widening or enlarging the works of or belonging to the said Road, and also to place, lay, work, and manufacture the said materials on the ground near to the place or places where the said works or any of them are or shall be intended to be made, erected, repaired or done, and to build and construct the several works and erections belonging thereto, and also to make, maintain, repair or alter any fences or passages through the said Road, or which shall communicate therewith, and to construct, erect, and keep in repair any piers, arches, or other works, in and upon any creeks or brooks for making, using, and maintaining, and repairing the said Road, and also to construct, make and do all other matters and things, which they shall think necessary and convenient for the making, effecting, preserving, improving, completing, and using the said Road, in pursuance and within the true meaning of this Act, they, the said Company, doing as little damage as may be, in the execution of the several powers to them hereby granted, and making satisfaction in manner herein mentioned, for all damages to be sustained by the owners or occupiers of such lands, tenements or hereditaments.

As little dam-
age as may be
shall be done
and compen-
sation made.

Tolls may be
imposed and
collected.

X. And be it enacted, That it shall and may be lawful for the President and Directors of the said Company from time to time to fix, regulate and receive the Tolls and charges to be received from all persons passing and repassing over the said Road hereby authorized to be constructed, erected, built, made and used.

Tolls and ma-
terials of Road
vested in Com-
pany.

XI. And be it enacted, That the said Road and all materials which shall be from time to time got or provided for construction, building, maintaining or repairing the same, and the said Tolls as hereinbefore mentioned shall be and the same are hereby vested in the said Company, and their successors for ever.

Erection of
Toll Gates and
Toll Houses.

XII. And be it enacted, That the President and Directors of the said Company shall have full power to erect such number of Gates in or across the said Road, and fix such Tolls as they may deem fit and expedient (which Rates or Tolls may be altered from time to time as circumstances may require,) and to erect and maintain such Toll Houses, Toll Gates and other erections, which to them may seem necessary and convenient for the due performance of their business.

Punishment of
persons dam-
aging Toll
Gates or Toll
Houses.

Or otherwise
injuring the
property of the
Company.

Penalty.

XIII. And be it enacted, That if any person or persons shall cut, break down or destroy in any way any of the Gates or Toll Houses to be erected by virtue of this Act, every such person so offending, and being lawfully convicted, shall be deemed guilty of a misdemeanor, and be punished by fine and imprisonment; and if any person or persons shall remove any earth, stone or timber on the said road to the damage of the same, or shall forcibly pass or attempt to pass by force any of the Gates without having first paid the legal Toll at such Gate, such person or persons shall pay all damage by them committed, and shall forfeit and pay a fine not exceeding five pounds, nor less than five shillings, currency, to be recovered before any Justice of the Peace for the District in which such act shall have been committed.

Fines, &c.,
leviable by
distress.

XIV. And be it enacted, That the fines and forfeitures authorized to be imposed by this Act, shall and may be levied and collected by distress and sale of the offender's goods and chattels, under the authority of any Warrant or Warrants for that purpose

to

to be issued by any one of Her Majesty's Justices of the Peace, for either of the said Districts, who are hereby authorized and empowered to grant the same, and in case there shall be no such goods and chattels to satisfy such Warrant or Warrants, such offender or offenders may be committed to the common Gaol of the District in which such offence shall have been committed for any period not exceeding twenty days.

Imprisonment
of offender for
want of suffi-
cient distress.

XV. And be it enacted, That the said President and Directors, if they think proper, may commute the Tolls with any person or persons by taking of him, her or them a certain sum, either monthly or annually, in lieu of such Tolls, and that the said President and Directors shall affix in a conspicuous place at all such Toll Gates a table of the rate of Tolls to be exacted and taken, to be plainly and legibly printed.

Commutation
of Tolls :
Tables of
Tolls to be
posted up.

XVI. And be it enacted, That if any person or persons shall, after proceeding on the said Road with any carriages or animals liable to pay Toll, turn out of the same road into any other road, and shall enter the said Road beyond any of the said Gate or Gates without paying Toll, whereby such payment shall be evaded, such person or persons shall for every such offence forfeit and pay the sum of ten shillings, which said sum shall be expended on the said Road, or towards the discharging of any debts or other incumbrances thereon; and any one Justice of the Peace for the District in which such part of the said Road is situate shall, on conviction of such offender, fine such person in the said penalty, and from his judgment there shall be no appeal.

Penalty for
evading pay-
ment of Tolls.

XVII. And be it enacted, That if any person or persons occupying or possessing any enclosed lands near any Toll Houses or Toll Gates which shall be erected in pursuance of this Act, shall knowingly permit or suffer any person or persons to pass through such lands or through any gate, passage or way thereon, with any carriage, horse, mare, gelding, or other animal liable to the payment of Toll, whereby such payment shall be avoided, every person or persons so offending, and also the person riding or driving the animal or animals, or carriage whereon such payment is avoided, being thereof convicted, shall for every such offence severally forfeit and pay any sum not exceeding ten shillings, which shall be laid out in improving such road.

And for as-
sisting persons
to evade pay-
ment.

XVIII. And be it enacted, That all persons, horses or carriages going to, or attending or returning from any funeral of any person, or going to or returning from Divine Service on the Lord's Day, shall pass the Gates free of Toll.

Persons at-
tending fune-
rals and at
divine service
to pass Toll-
free.

XIX. And be it enacted, That the said Company or their agents or servants, at any time after the passing of this Act, under and by virtue of its provisions, shall and may construct, erect and build a Road as aforesaid; and also that the said Road contemplated by this Act shall not in any degree interfere with or encroach upon any fee simple, right or private easement or privilege of any individual now holding and enjoying the same or entitled thereto, without permission first had and obtained by the consent of the owner thereof, or by virtue of reference authorized by this Act.

Powers of
Company
strictly limited
by provisions
of this Act.

XX. And be it enacted, That the property, affairs and concerns of the said Compa-
ny shall be managed and conducted by seven Directors, one of whom shall be chosen President, who shall hold their offices for one year, which said Directors shall be Stockholders to the amount of at least ten Shares; and the first election of such Directors shall take place at the Town of Oakville, on the first Monday in August,

Number of
Directors and
their qualifica-
tion and term
of office.
Time of first
and subse-

one

quent election
of Directors.

Public Notice.

Proxies.
Elections to be
by ballot.

President.
Death or other
vacancies.

Number of
votes how pro-
portioned to
number of
shares.

Default to
elect not to
operate dis-
solution of
Company.

Rules and re-
gulations to be
made by the
Directors.

First meet-
ing of Stock-
holders, and
election of Di-
rectors.

one thousand eight hundred and forty-six, at the hour of twelve of the clock at noon; and thereafter the said annual election of Directors shall take place at the Town of Oakville, on the first Monday in May, at such time of the day as a majority of the Directors for the time being shall appoint; and public notice thereof shall be given in any newspaper or newspapers that may be published in the said District of Gore, and in any newspaper or newspapers that may be published in the said District of Wellington, at least one month previous to holding the said election; and the said election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose in their own proper persons or by proxy; and all the elections for such Directors shall be by ballot, and the seven persons who shall have the greatest number of votes at any election shall be Directors; and if it shall happen at any such election that two or more have an equal number of votes in such a manner that a greater number of persons than seven shall by a plurality of votes appear to be chosen Directors, then the said Stockholders hereinbefore authorized to hold such election, shall proceed to elect by ballot, until it is determined which of the said persons so having an equal number of votes shall be Director or Directors, so as to complete the whole number of seven, and the said Directors so chosen shall, as soon as may be after the said election, proceed in like manner to elect by ballot one of their number to be President; and if any vacancy or vacancies shall at any time happen among the Directors, by death, resignation or removal from the Province, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen, by a person or persons to be nominated by a majority of the Directors,

XXI. And be it enacted, That each Stockholder shall be entitled to a number of votes in proportion to the number of shares which he or she shall have in his or her own name, and shall have had at least one month previous to the time of voting, according to the following rules, that is to say: one vote for each share not exceeding four, five votes for six shares, six votes for eight shares, seven votes for ten shares, and one vote for every five shares above ten.

XXII. And be it enacted, That in case it should at any time happen that an election of Directors should not be made on any day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any day to hold and make an election of Directors in such manner as shall be regulated by the By-laws and Ordinances of the said Corporation.

XXIII. And be it enacted, That the Directors for the time being, or a majority of them, shall have power to make and subscribe such rules and regulations as to them shall appear needful and proper, touching the management and disposition of the stock, property, estate and effects of the said Company, and touching the duties of the Officers, Clerks and servants, and all such other matters or things as appertain to the business of the said Corporation, and also shall have power to appoint as many Officers, Clerks and servants for the carrying on the said business, and with such salaries and allowances as to them shall seem fit.

XXIV. And be it enacted, That on the first Monday in the month of August next, a meeting of the Stockholders shall be held in the Town of Oakville, who in the same manner as hereinbefore provided, shall proceed to elect seven persons to be Directors,
who

who shall elect by ballot one of their number to be President, and shall continue in office until the first Monday in May next after their election, and who, during such continuance, shall discharge the duties of Directors, in the same manner as if they had been elected at the annual election, or until such time thereafter as other Directors are appointed.

XXV. And be it enacted, That the whole Capital Stock which the said Company may have or hold by virtue of this Act, shall be twenty thousand pounds, with power to increase the same to double that amount, if found necessary, for constructing the said Road; and that the aforesaid Capital Stock shall be composed of shares of the value of five pounds, currency, each, and may, after the first instalment shall have been paid, be transferable by the respective persons subscribing and holding the same to any other person or persons, and such transfer shall be entered and registered in a book or books to be kept for that purpose by the said Company: Provided always, that nothing herein contained shall extend to authorize the said Company to carry on the business of Banking.

Amount of
Capital Stock,
£20,000.

In shares of
five pounds
each.

Transferable.

Proviso
against Bank-
ing.

XXVI. And be it enacted, That so soon as Directors have been appointed as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company, by giving thirty days' notice thereof in any newspaper published in the said Gore District, for an instalment of twenty per centum upon each share which they or any of them may respectively have subscribed for, and that the residue of the sums or shares of the Stockholders shall be payable by instalments, in such time and in such proportions as a majority of the Stockholders, at a meeting expressly convened for that purpose, shall agree upon, so that no such instalment shall exceed twenty per centum, nor become payable in less than thirty days after public notice in the newspaper or newspapers, as aforesaid: Provided always, that the said Directors shall not commence the construction of the said Road or way until the first instalment shall be paid in.

Calls for in-
stalments upon
shares.

Proviso: Road
not to be be-
gun until first
instalment is
paid.

XXVII. And be it enacted, That of the persons as aforesaid nominated and balloted for in manner aforesaid, those seven shall be deemed elected who shall have the greater number of votes according to the shares held by the voters respectively, as hereinbefore prescribed, at each and every such election of Directors; and that at every such election in every year as aforesaid, after the ballot shall have been kept open from eleven of the clock in the forenoon to two of the clock in the afternoon, the seven persons having the majority of votes in manner aforesaid shall, so soon after as convenient on the same day, be declared the Directors chosen for the ensuing year, by any two or more Scrutineers who shall have been previously nominated by the Stockholders for the purpose of nomination and report of such ballot: Provided nevertheless, that the Stockholders present at the place of ballot shall in the nomination of Scrutineers vote *per capita* and not by Shares.

Persons hav-
ing the majori-
ty of votes to
be deemed
duly elected.
Hours of elec-
tion.

Scrutineers.

Proviso.

XXVIII. And be it enacted, That if any Stockholder or Stockholders as aforesaid shall refuse or neglect to pay at the time required, any instalment or instalments which shall be lawfully required by the Directors as due upon any share or shares, such Stockholder or Stockholders so refusing or neglecting shall forfeit such share or shares as aforesaid with any amount which shall have been previously paid thereon, and the said share or shares may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid thereon, shall be accounted for and applied in like

Forfeiture of
shares upon
non payment
of instalments.

Proviso : Pur-
chaser to pay
instalments.

Proviso :
Notice of for-
feiture to be
given.

Annual divi-
dends and ac-
counts.

Surplus profits
above 10 per
cent. to consti-
tute a sinking
fund.

Legislature
may purchase
Road from
Company on
certain terms.

Annual state-
ment of affairs
of the Compa-
ny, to be laid
before the Le-
gislation.

like manner as other monies of the said Company : Provided always, that the purchaser or purchasers shall pay the said Company the amount of the instalment required, over and above the purchase money of the share or shares so purchased by him, her or them as aforesaid, immediately after the sale and before they shall be entitled to the certificate of the transfer of such shares purchased as aforesaid : Provided always, that ten days' notice of the sale of such forfeited shares shall be given in any newspaper or newspapers published in the Gore District, and in any newspaper or newspapers published in the Wellington District, and that the instalments due may be received in redemption of any such forfeited share, at any time before the day appointed for the sale thereof.

XXIX. And be it enacted, That it shall be the duty of the Directors to make annual dividends of so much of the profits of the said Company as to them or a majority of them shall seem advisable, and that once in each year an exact and particular statement shall be rendered of the state of their affairs, debts, credits, profits and losses, such statement to appear in the books, and to be open to the perusal of any Stockholder at his or their reasonable request.

XXX. And be it enacted, That whenever the said Tolls shall in the annual receipts exceed in amount a sum sufficient to defray the expenses of maintaining and repairing the said Road, and to afford an annual income to the said Company of ten per centum profit on the capital actually expended in the construction of the said Road from the commencement of its being travelled as aforesaid, then and in such case the increasing surplus revenue of the said Tolls shall be charged against the said Company as so much received by them in the nature of a sinking fund, by means whereof to purchase from the said Company the entire estate, use and property of the said Road, to and for the use of the public in such manner and form as the Legislature of this Province may by Legislative enactment hereafter provide.

XXXI. And be it enacted, That the Legislature of this Province may, at any time whatever, purchase the entire estate, property and use of the said Road from the said Company, paying to the said Company the capital so as aforesaid actually expended, together with fifteen per centum advance thereupon, to the credit of which payment all revenue exceeding ten per centum upon the *bonâ fide* expenditure, and over and above the expense of maintaining and repairing the said Road shall be charged and taken ; and it is also hereby provided and declared, that if any deficiencies of the said ten per centum annual profit should occur at any time, such deficiencies shall also be chargeable against the increasing revenue of the subsequent years, so that the Company may fairly and actually receive ten per centum profit on their said *bonâ fide* expenditure for the whole time they shall enjoy the estate, rights and privileges acquired under the authority of this Act ; any thing herein contained to the contrary thereof in anywise notwithstanding.

XXXII. And be it enacted, That it shall be the duty of the said Corporation, and of the person intrusted with the chief direction of its affairs, to lay annually before the three branches of the Legislature of this Province, in the course of the first fifteen days after the opening of the Session, a general statement, upon the oath of the President or Vice President of the said Company before any Justice of the Peace, of the affairs of the said Company, shewing as well the amount of its liabilities as the assets or means of

of meeting the same ; and such President or Vice-President being charged before any competent Court with false swearing in the matter of such statement, shall be tried, and if found guilty be punished, in like manner as if he had been charged and convicted of the crime of wilful and corrupt perjury.

XXXIII. And be it enacted, That notwithstanding the privileges that may be conferred by this Act, the Legislature may at any time hereafter, in their discretion, make such additions to this Act or such alteration of any of its provisions, as they may think proper for affording just protection to the public, or to any person or persons, body politic or corporate, in respect to their estate, property or rights, or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right of way, public or private, that may be affected by any of the powers given to this Corporation.

Legislature
may alter this
Act.

XXXIV. And be it enacted, That this Act shall be taken to be a Public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace, and other persons without being specially pleaded.

Public Act.

XXXV. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next after the fact committed, and not afterwards, and the Defendant or Defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

Limitations of
actions, for
things done
in pursuance
of this Act.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. XCIX.

An Act to incorporate *La Communauté des Filles de la Charité*, of the Parish of St. Hyacinthe, in the District of Montreal, for the care of infirm and sick persons, and for other purposes.

[18th May, 1846.]

WHEREAS an Association of Religious Ladies hath existed since the year one thousand eight hundred and forty, in the Parish of St. Hyacinthe in the District of Montreal, under the name of *La Communauté des Filles de la Charité*, whose occupation consists in taking care of sick persons in the Hôtel-Dieu of St. Hyacinthe, which they have continued to do since the Association has been formed, and have given their services and gratuitously furnished the necessaries of life to the indigent sick ; and whereas the said Ladies have by their Petition prayed that the said Association may be incorporated, and in consideration of the great benefits which must arise from so charitable an Institution, it is expedient to grant their prayer : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That *Marie Honorine Pinsoneault, (dite St. Joseph,) Marie Tharsile Guyon, Marie Michel Huot, Marie Emilie Jauron, Marie Robidou*, and such other persons as shall under the provisions of this Act become members of the said Institution, shall be, and are hereby declared to be a body politic and corporate in deed and name, by the name of *La Communauté des Filles de la Charité de l'Hôtel-Dieu de St. Hyacinthe*, and by that name shall have perpetual succession and a common seal, and shall have power from time to time to alter, renew or change such a common seal at their pleasure, and shall by the same name from time to time and at all times hereafter, be able and capable to purchase, acquire, hold, possess, enjoy, exchange and sell, and to take and receive to them and their successors for the uses and purposes of the said Corporation, any lands, tenements and hereditaments, and real or immovable property and estate, situate, lying and being within this Province, not exceeding in yearly value the sum of two thousand pounds, currency, and the same to sell, alienate and dispose of, and to purchase others in their stead for the same purpose ; and by the said name shall and may be able and capable in law to sue and be sued, implead and be impleaded, answer and be answered unto in all Courts of Law and places whatsoever, in as large, ample and beneficial a manner as any other body politic or corporate, or as any persons able or capable in law may or can sue and be sued, implead and be impleaded, answer and be answered unto in any manner whatsoever ; and any majority of the members of the Corporation for the time being, shall have power and authority to

Preamble.

Present members of the institution incorporated.

And their Successors.

Corporate name ;

And powers.

Common Seal.

To hold property.

Yearly value of property of the Corporation limited.

To sue and be sued.

To make By-laws.

make

Other powers. make and establish such Rules, Orders and Regulations, not being contrary to this Act nor to the laws in force in this Province, as shall be deemed useful or necessary for the interests of the said Corporation, and for the management thereof, and for the admission of members into the said Corporation, and from time to time to alter, repeal and change the said Rules, Orders and Regulations, or any of them, or those of the said Association in force at the time of the passing of this Act; and shall and may do, execute and perform all and singular other the matters and things relating to the said Corporation and the management thereof, or which shall or may appertain thereto; subject nevertheless to the rules, regulations, stipulations and provisions hereinafter prescribed and established.

To what purpose only the Revenues of the Corporation shall be applied.

II. Provided always, and be it enacted, That the rents, revenues, issues and profits of all property, real or personal, held by the said Corporation, shall be appropriated and applied solely to the maintenance of the Members of the Corporation, the construction and repair of the buildings requisite for the purposes of the Corporation, the purchase of real and personal property, the establishing of ground rents, the support of infirm, sick and destitute persons, and the payment of the expenses to be incurred for objects legitimately connected with or depending on the purposes aforesaid.

Present property liabilities of the Institution transferred to the Corporation. And its rules to be those of the Corporation until altered.

III. And be it enacted, That all and every the estate, real and personal, belonging to, or hereafter to be acquired by the said Members of the said Association as such, and all debts, claims and rights whatsoever due to them in that quality, shall be and are hereby vested in the Corporation hereby established; and the Rules, Orders and Regulations, now made or to be made for the management of the said Association, shall be and continue to be the Rules, Orders and Regulations of the said Corporation, until altered or repealed in the manner herein provided.

Power to appoint Attornies, Officers, and servants.

IV. And be it enacted, That the Members of the said Corporation for the time being, or a majority of them, shall have power to appoint such Attorney or Attornies, Administrator or Administrators of the property of the Corporation, and such Officers and servants of the said Corporation as shall be necessary for the well conducting of the business and affairs thereof, and to allow to them such compensation for their services respectively, as shall be reasonable and proper; and all Officers so appointed shall be capable of exercising such other powers and authority for the well governing and ordering of the affairs of the said Corporation as shall be prescribed by the Rules, Orders and Regulations of the said Corporation.

Powers of Officers.

Members not personally liable for debts of the Corporation.

V. And be it enacted, That nothing herein contained shall have the effect or be construed to have the effect of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the members of the said Corporation, or any person whatsoever, individually liable or accountable for or by reason of the said Corporation, or for or on account or in respect of any matter or thing whatsoever relating to the said Corporation.

Rights of the Crown saved.

VI. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are hereinbefore mentioned and

Act to be a public Act.

VII. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are hereinbefore mentioned and

be deemed a Public Act, and shall be deemed to be in the name of His Majesty, His Heirs or Successors, and other persons

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A N N O N O N O
V I C T O R I Æ R E G I N Æ.

C A P. C.

An Act to vest in James K. Andrews a certain allowance of Road in the Township of Dumfries, in the District of Gore.

[18th May, 1846.]

WHEREAS the Gore District Council, by their By-law number forty-seven, took from James K. Andrews a line of road between the seventh and eighth concessions of the Township of Dumfries, for the accommodation of the public, in consequence of the concession line in front of Lots numbers thirty-four and thirty-five between the seventh and eighth concessions of the said Township of Dumfries being swampy and otherwise unfit for the purposes of a public road; And whereas, by reason of the said Council not having power to make a grant of the public allowance for a road, the inhabitants of Dumfries have presented a Petition to the Legislature with a plan of the road so taken, and a report of the District Surveyor, by which it appears that the concession line petitioned for by the said James K. Andrews is altogether useless to the public, and that it is but just and reasonable that the portion of the concession line between the seventh and eighth concessions hereinafter described, should be granted to the said James K. Andrews in lieu of the land taken from him by the said By-law number forty-seven of the District Council of the Gore District: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all that part of the original road allowance on the concession line between the seventh and eighth concessions of the Township of Dumfries in the Gore District, lying between the point where the new line of road established by the Municipal Council of the said District, by their By-law number forty-seven, diverges from the said concession line in front of lot number thirty-three, and the point where it joins it at the division line between lots numbers thirty-five and thirty-six, in the eighth concession, being a strip of land forty one chains, seventy-five links in length by one chain in breadth,—excepting such portion thereof as forms or may form part of the aforesaid new road, and reserving to the public the right of thoroughfare across the same between the mill-dam on Spring Creek, and the said new road,—shall be, and the same is hereby vested in the said James K. Andrews, his heirs and assigns for ever, in conformity to the prayer of the said Petition.

Preamble.
Recital.

Part of the
original allow-
ance for roads
between the
7th and 8th
Concessions of
Dumfries, ves-
ted in J. K.
Andrews.

Reservation to
the public.



ANNO NONO

VICTORIÆ REGINÆ.

CAP. CI.

An Act to indemnify Anthony Leslie, Inspector of Licenses, for having, in ignorance of the Law, voted at the late Election for the County of Lanark.

[18th May, 1846.]

WHEREAS by an Act passed in the seventh year of Her Majesty's Reign and intituled, *An Act for better securing the Independence of the Legislative Assembly of this Province*, it is among other things in effect enacted, that all Officers employed in the collection of any duties payable to Her Majesty in the nature of Duties of Excise, shall be incapable and incompetent to vote at any election of a Member or Members to serve in the Legislative Assembly of this Province, under a penalty of five hundred pounds, current money of this Province, to be recovered by such person as shall sue for the same by action of debt, bill, plaint or information in and before any Court of competent civil jurisdiction in this Province; And whereas, by reason of the insufficient promulgation of the said Act, it was found expedient, by an Act passed in the last Session of the Provincial Parliament, to indemnify persons who voted at the last General Election in ignorance of the Act first above cited, but such indemnity was not extended to any subsequent election; And whereas Anthony Leslie, of Perth, in the District of Bathurst, Inspector of Licenses in and for the said District of Bathurst, hath by his Petition represented that he voted at the now last election for the County of Lanark, in ignorance of the provision of the Act first above cited, and hath prayed to be indemnified for so voting; and by reason of the short period which elapsed between the said General Election and the said election for the County of Lanark, it is just that the indemnity afforded by the Act secondly above cited should be extended to the said Anthony Leslie, subject to the provisions hereinafter made: Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act no action of debt, bill, plaint or information shall be brought under the Act first cited in the Preamble to this Act, against the said Anthony Leslie for having so voted at the now last election of a Member to represent the said County of Lanark in the Legislative Assembly; and if before the passing of this Act any such action of debt, bill, plaint or information shall have been brought against the said Anthony Leslie, for having so voted, he may apply for and obtain from the Court in which

Preamble.

Act 7 Vict. c. 65, cited.

Recital of the case of Anthony Leslie.

No action to be brought or maintained against Anthony Leslie for having voted at last general election.

Payment of
costs in any
action com-
menced before
the passing
thereof

which the same shall be pending an Order to stay all proceedings in the case, on condition that he shall pay to the Plaintiff or his Attorney all the costs then incurred by such Plaintiff within sixty days after he shall have caused the same to be duly taxed; and if the said Anthony Leslie shall so pay such costs, then the said Order shall be absolute, and no further proceedings of any kind shall be had in the case; but if he shall fail so to pay such costs, then further proceedings shall be had, as if this Act had not been passed.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. CII.

An Act for the relief of John Macara, of the City of Toronto, Esquire.

[18th May, 1846.]

WHEREAS an Act was passed by the Legislature of the then Province of Upper Canada, in the second year of the reign of His late Majesty King George the Fourth, intituled, *An Act to repeal part of and amend an Act passed in the thirty-seventh year of His late Majesty's Reign, intituled, 'An Act for the better regulating the practice of the Law,' and to extend the provisions of the same*; And whereas it is amongst other things enacted, that from and after the passing of the said Act, no person shall be admitted by the Court of Queen's Bench to practise as an Attorney in Upper Canada unless upon an actual service under Articles for five years, with some practising Attorney in Upper Canada; and whereas an Act was passed by the said Legislature, in the seventh year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to amend the Law for the admission of Barristers and Attorneys, and to provide for the further relief of William Conway Keble*; And whereas it is by the said last recited Act amongst other things enacted, that from and after the passing of the said Act, it shall be lawful for the Court of King's Bench in its discretion, to admit any duly admitted Attorney or Solicitor of Her Majesty's Courts of Law or Equity in England or Ireland, or any Writer to the Signet or Solicitor before the Higher Courts in Scotland, to practise as an Attorney of the Court of King's Bench in Upper Canada upon sufficient proof being given that such Attorney, Solicitor or Writer to the Signet aforesaid, has served under Articles of Clerkship to a practising Attorney in Upper Canada for the space of three years, or if such Attorney, Solicitor, or Writer to the Signet, or Solicitor before the Higher Courts shall have taken a degree at any of the Universities in the United Kingdom, then for the period of two years only; And whereas it appears by the petition of John Macara, a native of Scotland, now resident in that part of this Province formerly Upper Canada, and by certificates and documents produced in support thereof, that the said John Macara served a Clerkship of five years with a Writer to the Signet in the City of Edinburgh, previous to entering upon which the said John Macara attended the Literary classes of the University of Edinburgh as required by the Society of Writers to the Signet from Members of their body; that he afterwards attended the Law Classes of the said University during his Clerkship, and that upon these qualifications which would have entitled the said John Macara to admission to the Supreme Court of Scotland, he was duly admitted to practise before the Sheriffs' Courts of Scotland: And whereas it further appears that the said John Macara has duly served under Articles of

Preamble.

Act of U. C.
2 Geo. 4 (2nd
Sess.) c. 5.
amending 37.
Geo. 3. c. 13,
cited.

Act of U. C.
7 Will. 4. c. 15.
cited.

John Macara
may be admit-
ted as an At-
torney by the
Court of Q. B.

of Clerkship to an Attorney at Law and Solicitor in Chancery in Upper Canada since the first day of June, one thousand eight hundred and forty-two, and that the said John Macara hath been a Member of the Law Society of Upper Canada for upwards of three years; and also that the said John Macara came to this Province ignorant of the existence of any Law debarring him from the practise of his profession or conferring on Practitioners before the English Courts any Privileges not enjoyed by Scottish Practitioners in this country; And whereas the said John Macara is desirous of being admitted to practise before the Courts of Law and Equity of Upper Canada, and it is expedient to relieve him from the disability imposed by any of the before recited Acts: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That any thing in any of the said recited Acts to the contrary thereof in any wise notwithstanding, the Court of Queen's Bench in and for that part of this Province formerly the Province of Upper Canada, may, in its discretion, admit the said John Macara to practise as an Attorney in that part of this Province last aforesaid, which shall be understood by the words, "Upper Canada," whenever they occur in this Act.

Court of Chan-
cery for U. C.
may admit
him as a So-
licitor.

II. And be it enacted, That the Vice Chancellor of Upper Canada may, in his discretion, admit the said John Macara to practise as a Solicitor in the Court of Chancery of Upper Canada.

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ANNO NONO

VICTORIÆ REGINÆ.

CAP. CIII.

An Act to authorize the Courts of Queen's Bench and of Chancery in Upper Canada, in their discretion, to admit John W. Dempsey to practise as an Attorney and Solicitor therein.

[18th May, 1846.]

WHEREAS by an Act of the Legislature of Upper Canada, passed in the second year of the Reign of His late Majesty King George the Fourth, and intituled, *An Act to repeal part of and amend an Act passed in the thirty-seventh year of His late Majesty's Reign, intituled, 'An Act for the better regulating the practice of the Law, and to extend the provisions of the same,* it is, among other things, enacted, that from and after the passing of the said Act, no person shall be admitted, by the Court of King's Bench, to practise as an Attorney, unless upon an actual service, under Articles, for five years, with some practising Attorney; And whereas it appears by the Petition of John W. Dempsey, of the City of Toronto, Gentleman, and by the certificate of Charles Coxwell Small, Esquire, Clerk of the Crown and Pleas at Toronto, indorsed on the said Petition, that he, the said John W. Dempsey, faithfully served, under Articles of Clerkship, for the period of five years with the said Clerk of the Crown and Pleas, but it has been considered that the said Clerk of the Crown and Pleas is not a practising Attorney within the meaning of the said Act; And whereas in England, the several Prothonotaries of the Court of Common Pleas, and the Secondary of the Court of Queen's Bench there, are each allowed to have Clerks articled to them, who, after their Clerkship is ended, may be admitted and sworn as Attorneys of the Courts of Law at Westminster, and the said John W. Dempsey was articled to and served his Clerkship with the said Charles Coxwell Small *bonâ fide* and under the belief that the said Charles Coxwell Small was authorized by law to receive him as such Clerk, which belief was also entertained by the said Charles Coxwell Small; And whereas it is reasonable under the circumstances of the case that the Courts of Law and Equity in Upper Canada should be authorized, in their discretion, to admit the said John W. Dempsey to practise as an Attorney and Solicitor, and it is therefore expedient to grant the prayer of his said Petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,* and it is hereby enacted by the authority

Preamble.

Act of U. C.
2 Geo. 4. (2nd
Sess.) c. 5. re-
cited.

Petition of J.
W. Dempsey
recited.

Practice in
England,
stated.

Case of J. W.
Dempsey
stated.

Courts of
Queen's Bench
and of Chan-
cery in U. C.
authorized to
admit J. W.
Dempsey as an
Attorney and
Solicitor in the
said Courts,
respectively.

Proviso: Clerk
of the Crown
and Pleas, not
to take other
Clerks with a
view to their
being admitted.

authority of the same, That it shall and may be lawful for the Court of Queen's Bench, in and for that part of this Province which formerly constituted the Province of Upper Canada, in its discretion, to admit the said John W. Dempsey, as an Attorney of that Court; and that it shall also be lawful for the High Court of Chancery in that part of this Province last aforesaid, in its discretion, to admit him to practise as a Solicitor in the said Court of Chancery; any law or usage to the contrary notwithstanding.

II. Provided always, that nothing herein contained shall extend or be construed to extend to authorize the said Charles Coxwell Small, or any future or other Clerk of the Crown and Pleas, to take articled Clerks with the view of being admitted as Attornies at law or Solicitors in Chancery in this Province.

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A N N O N O N O

VICTORIÆ REGINÆ.

C A P. C I V.

An Act to vest in Richard E. Vidal, his Heirs and Assigns, the Government allowance for a Road across certain Lots of Land in the Township of Sarnia, in the Western District, now belonging to him.

[18th May, 1846.]

WHEREAS it appears that two certain lots of land fronting upon the River St. Clair, and being lots numbers seventy-three and seventy-four, in the Front Concession of the Township of Sarnia, in the Western District of this Province, were by His late Majesty's Letters Patent, bearing date the first day of April, in the year of our Lord, one thousand eight hundred and thirty-three, granted to Richard E. Vidal, Esquire, a Commander in the Royal Navy, and by the said Letters Patent the usual allowance for a Public Road was reserved on the front of the said lots, on the top of the bank of the said River; And whereas it also appears that the said Public Road, if made on the allowance so reserved, would have passed across a deep ravine and through a deep swamp, and that the settlers beyond the now Village of Sarnia (being the parties chiefly interested in the said Road) wishing to avoid the said ravine and swamp, applied to the said Richard E. Vidal, and urged him to allow the said Road to pass over the said lots on a line about three chains from the said allowance for Road, and that he consented to allow the Road to be made on the line last mentioned, under the persuasion that the Government allowance first above mentioned could be legally conveyed to him by the Surveyor of Highways, in the place of the land given by him for the said Road on the line last above mentioned,—and that a new Road was opened and is now open as a Public Highway on the said line,—and the Surveyor of Highways for the Township of Moore, acting under the order of the Justices of the Peace for the Western District, did, on the twenty-fourth day of July, in the year of our Lord, one thousand eight hundred and forty, execute a deed purporting to convey the said Government allowance, first above mentioned, to the said Richard E. Vidal, instead of the land granted by him for the new Road so opened as aforesaid; And whereas the said Surveyor of Highways had not, by law, power to convey the said Government allowance to the said Richard E. Vidal as aforesaid, and it is nevertheless just and right that the same should be granted and confirmed to him for the considerations aforesaid, as by his petition he hath prayed: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled,

Preamble.
Recital, of the
case of R. E.
Vidal.

Other powers. make and establish such Rules, Orders and Regulations, not being contrary to this Act nor to the laws in force in this Province, as shall be deemed useful or necessary for the interests of the said Corporation, and for the management thereof, and for the admission of members into the said Corporation, and from time to time to alter, repeal and change the said Rules, Orders and Regulations, or any of them, or those of the said Association in force at the time of the passing of this Act; and shall and may do, execute and perform all and singular other the matters and things relating to the said Corporation and the management thereof, or which shall or may appertain thereto; subject nevertheless to the rules, regulations, stipulations and provisions hereinafter prescribed and established.

To what purpose only the Revenues of the Corporation shall be applied. II. Provided always, and be it enacted, That the rents, revenues, issues and profits of all property, real or personal, held by the said Corporation, shall be appropriated and applied solely to the maintenance of the Members of the Corporation, the construction and repair of the buildings requisite for the purposes of the Corporation, the purchase of real and personal property, the establishing of ground rents, the support of infirm, sick and destitute persons, and the payment of the expenses to be incurred for objects legitimately connected with or depending on the purposes aforesaid.

Present property liabilities of the Institution transferred to the Corporation. And its rules to be those of the Corporation until altered. III. And be it enacted, That all and every the estate, real and personal, belonging to, or hereafter to be acquired by the said Members of the said Association as such, and all debts, claims and rights whatsoever due to them in that quality, shall be and are hereby vested in the Corporation hereby established; and the Rules, Orders and Regulations, now made or to be made for the management of the said Association, shall be and continue to be the Rules, Orders and Regulations of the said Corporation, until altered or repealed in the manner herein provided.

Power to appoint Attornies, Officers, and servants. IV. And be it enacted, That the Members of the said Corporation for the time being, or a majority of them, shall have power to appoint such Attorney or Attornies, Administrator or Administrators of the property of the Corporation, and such Officers and servants of the said Corporation as shall be necessary for the well conducting of the business and affairs thereof, and to allow to them such compensation for their services respectively, as shall be reasonable and proper; and all Officers so appointed shall be capable of exercising such other powers and authority for the well governing and ordering of the affairs of the said Corporation as shall be prescribed by the Rules, Orders and Regulations of the said Corporation.

Powers of Officers. V. And be it enacted, That nothing herein contained shall have the effect or be construed to have the effect of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the members of the said Corporation, or any person whatsoever, individually liable or accountable for or by reason of the said Corporation, or for or on account or in respect of any matter or thing whatsoever relating to the said Corporation.

Members not personally liable for debts of the Corporation. VI. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are hereinbefore mentioned and provided for.

Rights of the Crown saved. VII. And be it enacted, That this Act shall be deemed a Public Act, and shall be publicly taken notice of as such by all Judges, Justices of the Peace, and other persons whatsoever, without being specially pleaded.

Act to be a public Act.



A N N O N O N O
V I C T O R I Æ R E G I N Æ.

C A P. C.

An Act to vest in James K. Andrews a certain allowance of Road in the Township of Dumfries, in the District of Gore.

[18th May, 1846.]

WHEREAS the Gore District Council, by their By-law number forty-seven, took from James K. Andrews a line of road between the seventh and eighth concessions of the Township of Dumfries, for the accommodation of the public, in consequence of the concession line in front of Lots numbers thirty-four and thirty-five between the seventh and eighth concessions of the said Township of Dumfries being swampy and otherwise unfit for the purposes of a public road; And whereas, by reason of the said Council not having power to make a grant of the public allowance for a road, the inhabitants of Dumfries have presented a Petition to the Legislature with a plan of the road so taken, and a report of the District Surveyor, by which it appears that the concession line petitioned for by the said James K. Andrews is altogether useless to the public, and that it is but just and reasonable that the portion of the concession line between the seventh and eighth concessions hereinafter described, should be granted to the said James K. Andrews in lieu of the land taken from him by the said By-law number forty-seven of the District Council of the Gore District: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all that part of the original road allowance on the concession line between the seventh and eighth concessions of the Township of Dumfries in the Gore District, lying between the point where the new line of road established by the Municipal Council of the said District, by their By-law number forty-seven, diverges from the said concession line in front of lot number thirty-three, and the point where it joins it at the division line between lots numbers thirty-five and thirty-six, in the eighth concession, being a strip of land forty one chains, seventy-five links in length by one chain in breadth,—excepting such portion thereof as forms or may form part of the aforesaid new road, and reserving to the public the right of thoroughfare across the same between the mill-dam on Spring Creek, and the said new road,—shall be, and the same is hereby vested in the said James K. Andrews, his heirs and assigns for ever, in conformity to the prayer of the said Petition.

Preamble.
Recital.

Part of the original allowance for roads between the 7th and 8th Concessions of Dumfries, vested in J. K. Andrews.

Reservation to the public.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,



ANNO NONO
VICTORIÆ REGINÆ.

CAP. CI.

An Act to indemnify Anthony Leslie, Inspector of Licenses, for having, in ignorance of the Law, voted at the late Election for the County of Lanark.

[18th May, 1846.]

WHEREAS by an Act passed in the seventh year of Her Majesty's Reign and intituled, *An Act for better securing the Independence of the Legislative Assembly of this Province*, it is among other things in effect enacted, that all Officers employed in the collection of any duties payable to Her Majesty in the nature of Duties of Excise, shall be incapable and incompetent to vote at any election of a Member or Members to serve in the Legislative Assembly of this Province, under a penalty of five hundred pounds, current money of this Province, to be recovered by such person as shall sue for the same by action of debt, bill, plaint or information in and before any Court of competent civil jurisdiction in this Province ; And whereas, by reason of the insufficient promulgation of the said Act, it was found expedient, by an Act passed in the last Session of the Provincial Parliament, to indemnify persons who voted at the last General Election in ignorance of the Act first above cited, but such indemnity was not extended to any subsequent election ; And whereas Anthony Leslie, of Perth, in the District of Bathurst, Inspector of Licenses in and for the said District of Bathurst, hath by his Petition represented that he voted at the now last election for the County of Lanark, in ignorance of the provision of the Act first above cited, and hath prayed to be indemnified for so voting ; and by reason of the short period which elapsed between the said General Election and the said election for the County of Lanark, it is just that the indemnity afforded by the Act secondly above cited should be extended to the said Anthony Leslie, subject to the provisions hereinafter made : Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act no action of debt, bill, plaint or information shall be brought under the Act first cited in the Preamble to this Act, against the said Anthony Leslie for having so voted at the now last election of a Member to represent the said County of Lanark in the Legislative Assembly ; and if before the passing of this Act any such action of debt, bill, plaint or information shall have been brought against the said Anthony Leslie, for having so voted, he may apply for and obtain from the Court in which

Preamble.
Act 7 Vict. c.
65, cited.
Recital of the
case of Antho-
ny Leslie.

No action to
be brought or
maintained
against Antho-
ny Leslie for
having voted
at last general
election.

PROVINCIAL STATUTES

OF

CANADA,

ENACTED by Her Most Excellent Majesty, Our Sovereign Lady VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of An Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth years of Her Majesty's Reign, intituled, "*An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

VOL. II. 2nd Sess. 2nd Parlt. Continued.
RESERVED ACTS.



MONTREAL:

PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Anno Domini, 1846.

PROVINCIAL STATUTES

OF

CANADA.

ANNO REGNI DECIMO

VICTORIÆ,

DEI GRATIA, BRITANNIARUM REGINÆ.

HIS EXCELLENCY THE RIGHT HONORABLE

CHARLES MURRAY, EARL CATHCART, K. C. B.

GOVERNOR GENERAL

**BEING THE SECOND SESSION OF THE SECOND PROVINCIAL PARLIAMENT OF
C A N A D A.**

RÈSERVED ACTS,

**To which the ROYAL ASSENT was subsequently promulgated by His Excellency CHARLES
MURRAY, EARL CATHCART, K. C. B., &c., &c., &c., Governor General.**



ANNO DECIMO
VICTORIÆ REGINÆ.

CAP. CVI.

An Act to restore the rights of certain persons attainted for High Treason.

Reserved for the signification of Her Majesty's pleasure, 9th June, 1846.

The Royal Assent given by Her Majesty in Council, on the 30th October, following; and Proclamation made thereof by His Excellency EARL CATHCART, in the Canada Gazette of December 26, 1846.

WHEREAS by an Act passed by the Parliament of the late Province of Upper Canada in the first year of Her Majesty's Reign, intituled, *An Act to enable the Government of this Province to extend a conditional pardon, in certain cases, to persons who have been concerned in the late insurrection*, provision was made for the granting of qualified conditional pardons to certain persons charged with High Treason in that Province, upon such persons petitioning for pardon in the manner prescribed by that Act, which pardon to be granted as therein provided, it was by the said Act enacted, should have the same effect as an attainder of the person therein named for the crime of High Treason, so far as regarded the forfeiture of his estate and property real and personal: And whereas since the passing of the said Act divers persons have been pardoned under the provisions of the same: And whereas divers others whose cases did not fall within the provisions of the said Act, have since the passing thereof, also received Her Majesty's most gracious pardon, either under the Great Seal of the said late Province or under the Great Seal of this Province: And whereas Her Majesty, in the gracious exercise of Her Royal Clemency, hath heretofore abstained from enforcing for the use or benefit of the Crown any forfeiture of the property or effects, real or personal, worked by the attainder of any of the persons so pardoned, and hath been graciously pleased to signify Her Royal Pleasure, that none of the forfeitures aforesaid should be enforced at any time hereafter: And whereas for the purpose of giving effect to such Her Majesty's gracious wishes in this behalf, and for the quieting of the rights and titles of all such persons, their heirs, executors, administrators and assigns, to all such property and effects, real and personal, it is expedient that full effect should be given to Her Majesty's most gracious intentions in the behalf aforesaid by Act of the Provincial Parliament: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in all cases where any person or persons shall, since the fourth day of December, one thousand eight hundred and thirty-seven, have been attainted for High Treason, either after trial or under the provisions of the

Preamble.

Recital.

Act of U. C.
1 Vict. c. 10.

Attainder of
the persons
pardoned as
aforesaid re-
versed, and
Act



1183

ANNO DECIMO
VICTORIÆ REGINÆ.

CAP. CVI.

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Preamble.

Recital.

Act of U. C.
1 Vict. c. 10.

Attainder of
the persons
pardoned as
aforesaid re-
versed, and
Act

their estates
and property
reverted in
them, their
heirs, &c.

Act first above cited, in Upper Canada, and have received Her Majesty's Pardon, every such attainder shall be and the same is hereby reversed; and all and singular the estate, property and effects, real and personal, of every such person, whether the same be in possession or in action, shall be and the same is hereby vested in such person, his, or her heirs, executors, administrators and assigns, in like manner to all intents and purposes whatsoever, in as full and ample a manner, and with the like and no other or further effect or consequence as to the rights of third parties, as if such attainder of such person or persons had never taken place.

This Act not
to affect the
Act of U. C. 1
Vict. c. 12, or
of 8 Vict. c.
106.

II. And be it enacted, That this Act shall not extend or be construed to extend to alter or in any wise affect the provisions of a certain other Act passed by the said Parliament of Upper Canada in the same year as the said Act above recited, and intituled, *An Act for indemnifying persons who since the second of December, one thousand eight hundred and thirty-seven, have acted in apprehending, imprisoning or detaining in custody, persons suspected of High Treason or Treasonable practices, and in the suppression of unlawful assemblies, and for other purposes therein mentioned*, nor to alter or in any wise affect the provisions of a certain Act of the Parliament of this Province, passed in the eighth year of Her Majesty's Reign, intituled, *An Act to vest in John Montgomery and Thomas Ewart, the property forfeited to the Crown by the attainder of the said John Montgomery.*

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DECIMO
VICTORIÆ REGINÆ.

CAP. CVII.

An Act to incorporate *The Montreal and Kingston Rail-road Company.*

Reserved for the signification of Her Majesty's pleasure, 9th June, 1846.

The Royal Assent given by Her Majesty in Council, on the 30th October, following ; and Proclamation made thereof by His Excellency EARL CATHCART, in the Canada Gazette of December 26, 1846.

WHEREAS it is desirable for the general benefit of the country that a chain of Preamble.
Railway should be constructed, extending from the Western Boundary of the Province to Montreal ; and whereas George S. Tiffany and others have petitioned for the passing of a law incorporating a Company for the purpose of constructing a single or double track, wooden or iron Rail-road or way, as a portion of the said proposed line from the said City of Montreal to the Town of Kingston, in the Midland District ; And whereas it is expedient to incorporate a Joint Stock Company for the purposes hereinafter mentioned : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Sir Allan Napier MacNab, William James Chaplin, George Hudson, John Moss, Henry John Enthoven, Matthew Uzielli, Abel Lewis Gower, Gregory Scale Walters, Thomas Smith, Samuel Laing, George Sylvester Tiffany, Peter Carroll, Malcolm Cameron, James B. Ewart, Peter Buchanan, H. W. McKinstry, W. Harris, John O. Hatt, John Wetenhall, E. Cartwright Thomas, John S. Macdonald, Hugh B. Wilson, George Macdonell, Charles Devaux, John Masterman, Junr, Malcolm Cowan, Andrew Stuart, William Allan Harvey, Richard Juson, James Hamilton and the Honorable R. U. Harwood, with all such persons as shall become Stockholders in such Joint Stock or Capital as is hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic in fact, and under the name and style of *The Montreal and Kingston Rail-road Company*, and by that name they and their successors shall and may have continued succession, and by such name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and concerns whatsoever ; and they and their successors may and shall have a Common Seal, and may change and alter the same at their will and pleasure ; and also that they and their successors by the same name of *The Montreal and Kingston Rail-road Company*, shall

Certain persons incorporated for making the said Rail-road.

Corporate name and powers of Company.

Common Seal.

Name.

May hold property.

Proviso as to Real Estate.

shall be by law capable of purchasing, having and holding to them and their successors any estate, real; personal or mixed to and for the use of the said Company, and of letting, conveying and otherwise departing therewith for the benefit and on account of the said Company from time to time as they shall deem necessary and expedient : Provided always, nevertheless, that the real estate to be held by the said Company shall be only such as shall be required to be held by them for the purpose of making, using and preserving the said Rail-road, and for the objects immediately connected therewith.

Power to the Company to make a Rail-road between Montreal and Kingston.

II. And be it enacted, That the said Company and their agents or servants shall have full power under this Act to lay out, construct, make and finish a double or single iron or wooden Rail-road or way at their own costs and charges on and over any part of the country lying between the said City of Montreal and the said Town of Kingston, and to take, carry and transport thereon passengers, goods and property either in carriages used and propelled by the force of steam, or by the power of animals or any other mechanical or other power, or by any combination of power which the said Company may choose to employ.

Company may compound with owners of lands, &c. for the said lands.

Arbitrators to be appointed in case of disagreement.

Meetings of Arbitrators.

Arbitrators to be sworn.

Proviso as to the setting aside of awards.

III. And be it enacted, That the said Company are hereby empowered to contract, compound, compromise and agree with the owners and occupiers of any lands upon which they may determine to construct the said Rail-road either by purchase of so much of the said land and privileges as they shall require for the purposes of the said Company, or for the damages which he, she or they shall and may be entitled to receive of and from the said Company in consequence of the said intended Rail-road being made and constructed in and upon his, her or their respective lands, and in case of any disagreement between the said Company and the owner or owners, occupier or occupiers as aforesaid, it shall and may be lawful from time to time for each owner or occupier so disagreeing with the said Company either upon the value of the lands and tenements or private privileges proposed to be purchased, or upon the amount of damages to be paid to them as aforesaid to nominate and appoint one indifferent person, and for the said Company to nominate one other indifferent person, who, together with one other person to be chosen by the persons so named, before proceeding to business or in the event of their differing as to the choice of such person to be appointed by the Judge of the District Court for the District in which the lands are situate before the others proceed to business, shall be Arbitrators to award, determine, adjudge and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, the award of the majority of whom shall be final ; and the said Arbitrators shall be and are hereby required to attend at some convenient place in the vicinity of the said intended Rail-road, to be appointed by the said Company after eight days' notice for that purpose, given by the said Company, then and there to arbitrate, award, adjudge and determine such matters and things as shall be submitted to their consideration by the several parties interested ; and that each Arbitrator shall be sworn (before some one of Her Majesty's Justices of the Peace in and for the District in which the subject matter of the said disagreement shall originate, any of whom may be required to attend the said meeting for that purpose) well and truly to assess the damages between the parties, according to the best of his judgment : Provided always, that any award made under this Act shall be subject to be set aside on application to the Court of Queen's Bench in the same manner and on the same grounds as in ordinary cases of submission by the parties, in which case a reference may be again made to arbitration as hereinbefore provided.

IV. And be it enacted, That whatever sum of money may be finally awarded to any person or persons for compensation, for property required to be occupied, or for damages occasioned by the interference of the said Company with his or their property, rights or privileges, shall be paid within three months from the time of the same being awarded, and in case the said Company shall fail to pay the same within that period, then their right to assume any such property, or commit any act in respect of which such sum of money was awarded, shall wholly cease, and it shall be lawful for the proprietor to resume his occupation of such property, and to possess fully his rights and privileges in respect thereof, free from any claim or interference from the said Company.

Sum awarded to be paid within a certain time, on pain of forfeiture by the Company of their right to take possession.

V. And be it enacted, That when an award shall be made for more money, as an indemnification or satisfaction for any lands, grounds, hereditaments or property or for any damage done to any lands, tenements, hereditaments or property of any person or persons whomsoever, than had previously been offered by or on behalf of the said Company, then all the expenses of holding the said arbitration shall be defrayed by the said Company; but if any award shall be given for the same, or a less sum than had been previously offered by or on behalf of the said Company, or in case no damages shall be awarded (when the dispute is for damages only,) then and in every such case, the costs and expenses shall be settled in like manner by the Arbitrators, and paid by the party or parties with whom the said Company shall have had such dispute; which said costs and expenses having been settled, shall and may be deducted out of the money so awarded, when the sum shall exceed such costs and expenses, as so much money advanced to and for the use of such person or persons, and the payment or tender of the remainder of such money shall be deemed and taken to all intents and purposes to be a payment or tender of the whole sum so awarded, to be paid by the said Company to such person or persons as aforesaid.

Expenses of arbitration, by whom to be paid.

Costs may be deducted from amount awarded in certain cases.

VI. And be it enacted, That whenever any lands or grounds required by the said Company for the purpose of the said Rail-road, are held or owned by any person or persons, bodies politic, corporate or collegiate, whose residence may not be within this Province, or unknown to the said Company, or when the title to any such lands or grounds may be in dispute, or when the owner or owners of such lands or grounds are unwilling or unable to treat with the said Company for the sale thereof, or to appoint Arbitrators as aforesaid, it shall and may be lawful for the said Company to nominate and appoint one or more indifferent person or persons, and for the Judge of the District Court for the District in which such lands or grounds are situate, on the application of the said Company, to nominate and appoint an equal number of indifferent persons, who, together with one other person, to be elected by ballot by the persons so named shall be Arbitrators to award, determine, adjudge, and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same for the said lands or grounds or damages as aforesaid, and the decision of the majority of such Arbitrators shall be final—which said amount so awarded, the said Company are to pay or cause to be paid to the said several parties entitled to receive the same when demanded: And also that a record of such award or arbitration shall be made up and signed by the said Arbitrators or a majority of them, specifying the amount of such award and the costs of such arbitration, (which may be settled by the said Arbitrators or a majority of them,) which record shall be deposited in the Registry Office of the County in which such lands or grounds are situate: And also that

Arbitrators in certain cases to be appointed by the Company and the Judge of the District Court, and to ballot for others.

Award to be drawn up and registered.

Costs how paid.

the

the expenses of the said arbitration shall be paid by the said Company, and by them deducted from the amount of such award, on payment thereof to the parties entitled to receive the same.

Provision
when lands
required by
Company are
under mort-
gage.

Payment to
mortgagee.

Proviso: if the
award exceeds
the amount of
the mortgage.

VII. And be it enacted, That whenever any lands or grounds required to be used or occupied by the said Company, shall be held under mortgage, it shall and may be lawful to and for the said Company to nominate and appoint one or more indifferent person or persons, and for the Judge of the District Court for the District in which the lands or grounds are situate, on the application of the said Company, to nominate and appoint an equal number of indifferent persons, who, together with one other indifferent person, to be elected by ballot by the persons so named, shall be Arbitrators to decide on and assess the value of the said lands or grounds, or the amount of damages to be paid to the owner thereof as aforesaid; And upon such decision or award, the said Company shall pay or cause to be paid the amount of such award to the mortgagee as a payment for and on account of the said mortgage, and upon such payment being so made, the mortgagor and mortgagee are hereby required and compelled to join in conveying the said lands or grounds to the said Company or their successors; Provided always, that where the amount of such award shall exceed the amount secured or payable on such mortgage, the said Company after the amount due on such mortgage, shall pay or cause to be paid the balance of the said award to the mortgagee, or other party entitled to receive the same.

When lands
belong to
any tribe of
Indians, com-
pensation to be
made, and ar-
bitrator to be
appointed by
the Chief Offi-
cer of the In-
dian Depart-
ment.

VIII. And be it enacted, That if the said double or single iron or wooden Rail-road or way shall pass through tracts of land or property belonging to or in possession of any tribe of Indians in this Province, or if any act occasioning damage to their property or their possession shall be done under the authority of this Act, compensation shall be made to them therefor in the same manner as is provided with respect to the property, possession or rights of other individuals; And that whenever it shall be necessary that Arbitrators shall be chosen by the parties for settling the amount of such compensation, the Chief Officer of the Indian Department within this Province is hereby authorized and required to name an Arbitrator on behalf of the said Indians, and the amount which shall be awarded in any case, shall be paid, where such lands belong to any tribe or body of Indians, to the said Chief Officer for the use of such tribe or body.

Certain parties
empowered to
convey to the
Company
lands required
for Rail-road.

IX. And be it enacted, That after any lands or grounds shall be set out and taken as aforesaid by the said Company for the purpose of making and completing the said double or single wooden or iron Rail-road or way or for other the purposes and conveniences aforesaid, it shall and may be lawful for all bodies politic, corporate or collegiate, corporations, communities, guardians, executors, administrators and all other trustees or persons whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other person or persons who are or shall be seized, possessed of or interested in any lands or grounds which shall be so required as aforesaid or any part thereof, to contract for, sell and convey unto the said Company, their successors or assigns, all or any part of such lands or grounds which may from time to time be required as aforesaid; and that all contracts, agreements, sales, conveyances and assurances so to be made shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary

contrary thereof in any wise notwithstanding; and all bodies politic, corporate or collegiate, and all persons whatsoever so conveying as aforesaid are hereby indemnified for what he, she or they or any of them shall respectively do by virtue of or in pursuance of this Act.

X. And be it enacted, That all deeds and conveyances for lands to be conveyed to the said Company for the purposes of this Act, shall and may be as far as the title to the said land or the circumstances of the party making such conveyance will admit, in the form given in the Schedule to this Act marked A; and all Registrars are hereby authorized to enter in their Register Books such deeds on the production and proof of execution thereof without any memorials, and to minute such entry on the said deed, and the said Company are to pay to the said Registrar for so doing the sum of two shillings and six pence, and no more.

Deeds and conveyances to be in form of Schedule A.

XI. And be it enacted, That the said *Montreal and Kingston Rail-road Company* shall have full power and authority to explore the country lying between the said City of Montreal and the said Town of Kingston, and to designate and establish, and for the said Company to take, appropriate, have and hold to and for the use of them and their successors, the line and boundaries of a double or single Rail-road, with their necessary railways to connect the said City of Montreal and the said Town of Kingston; and for the purposes aforesaid the said Company and their agents, servants and workmen are hereby authorized and empowered to enter into and upon the lands and grounds of or belonging to any person or persons, bodies politic or corporate, and to survey and take levels of the same or any part thereof; and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said double or single Rail-road and all such matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing, and using the said intended Rail-road; and also to make, build, erect and set up in and upon the route of the said Rail-road or upon the lands adjoining or near the same, all such works, ways, roads and conveniences as the said Company shall think requisite and necessary for the purposes of the said Rail-road; and also from time to time to alter, repair, amend, widen or enlarge the same or any other of the conveniences above mentioned, as well for carrying or conveying of all manner of materials necessary for making, erecting, furnishing, altering, repairing, widening or enlarging the works of or belonging to the said Rail-road; and also to place, lay, work and manufacture the said materials on the ground near to the place or places where the said works or any of them are or shall be intended to be made, erected, repaired or done, and to build and construct the several works and erections belonging thereto; and also to make, maintain, repair and alter any fences or passages under or through the said Rail-road, or which shall communicate therewith, and to construct, erect and keep in repair any piers, arches or other works in and upon and across any rivers or brooks for making, using, maintaining and repairing the said Rail-road and side paths; and also to construct, make, and do all other matters and things which they shall think necessary and convenient for the making, effecting, preserving, improving, completing and using the said Rail-road, in pursuance of and within the true meaning of this Act, they the said Company doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner herein mentioned for all damages to be sustained by the owners or occupiers of such lands, tenements and hereditaments.

Company may explore the country lying between Montreal and Kingston.

May enter upon lands for the purpose of survey.

And may erect buildings, machinery, &c.

May repair, widen, &c. the Rail-road.

May perform other works necessary for Rail road.

Doing as little damage as possible, and making satisfaction for all damages done.

XII.

Company not to encroach on any fee simple, &c. of any individual, except after the proper proceedings under this Act, or by permission.

XII. And be it enacted, That the said Company or their agents or servants at any time after the passing of this Act under and by virtue of its provisions, shall not, in constructing, building and furnishing a double or single iron or wooden Rail-road or way as aforesaid, on any part or portion of the country lying between the said City of Montreal and the said Town of Kingston, in any degree interfere with or encroach on any fee simple, right or private easement or privilege of any individual now holding and enjoying the same, or entitled thereto, without permission first had and obtained either by consent of the owner thereof or by virtue of the reference authorized by this Act.

Rail-road and tolls to be vested in Company.

XIII. And be it enacted, That the said double or single Rail-road or way and all materials which shall be from time to time got or provided for constructing, building, maintaining or repairing the same, and all tolls on goods, wares and merchandize, or passengers as hereinafter mentioned, shall be and the same are hereby vested in the said Company and their successors for ever.

President and Directors of Company empowered to receive tolls, &c.

XIV. And be it enacted, That as soon as the said double or single Rail-road or way shall be so far completed as to be capable of being used, it shall and may be lawful for the said Company, through their President and Directors, from time to time to fix and regulate the tolls and charges to be received for transportation of all goods, merchandize and passengers thereon, or any other convenience, erection or improvement, built, occupied or owned by the said Company to be used therewith, and it shall and may be lawful for them to ask for, demand, receive, recover and take the said tolls, dues or charges to and for their own proper use and benefit; and also that they shall have full power to regulate the time and manner in which goods and passengers shall be transported, taken and carried on the said double or single Rail-road or way, as well as the manner of collecting all tolls and dues on account of transportation and carriage, and shall have power to erect and maintain such toll-houses and other buildings for the accommodation and proper transaction of their business as to them may seem necessary.

And to make regulations for managing the transport on the road, &c.

The Company may reduce the tolls, and again raise the same; but equal rates shall be charged to all parties, so as to prevent monopoly.

XV. And be it enacted, That notwithstanding anything contained in this Act or any Section thereof, the said Company may from time to time reduce the tolls on the whole, or on any particular portion of the said Rail-road, and may again raise the same, so as to accommodate them to the circumstances of the traffic, but that the tolls to be demanded and taken by the Company hereby incorporated, shall be at all times charged equally to all persons, and after the same rate, whether per ton, per mile or otherwise, in respect of all passengers, and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine, passing only over the same portion of the line of Railway under the same circumstances: And no reduction or advance in any such tolls shall be made directly or indirectly, in favor of or against any particular company, person or party, travelling upon or using the Rail-road, or so as collusively and unfairly to create a monopoly, either in the hands of the said company, or of any other company, person or party.

The Company bound to convey Her Majesty's Mail, Troops, &c. how the rates shall be fixed if not agreed upon.

XVI. And be it enacted, That the said Company shall at times when thereunto required by Her Majesty's Deputy Post Master General, the Commander of the Forces, or any person having the command or superintendence of any Police force, carry Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all Artillery, Ammunition, Provisions or other Stores for their use, and all Policemen, Constables and

and others travelling on Her Majesty's Service, on their said Rail-road, on such terms and conditions, and under such Regulations as the said Company and the said Deputy Post Master General, the Commander of the Forces or person in command of any Police force, respectively, shall agree upon, or if they cannot agree, then on such terms and conditions and under such regulations as the Governor or person administering the Government shall in Council make: Provided that by such regulations the Company shall not be required to start any train at any other time than their ordinary time of starting the same, but they may be required to provide a separate carriage for the Mail and the person or persons in charge thereof; And provided also, that any further enactments which the Legislature of this Province may hereafter deem it expedient to make with regard to the carriage of the said Mail and Her Majesty's Forces and other persons and articles as aforesaid, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph, or other service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act; and nothing in this Act contained shall be construed to authorize the said Company to take or enter upon any lands or real estate of any kind belonging to Her Majesty, Her Heirs or Successors, or vested in or held in trust by the Principal Officers of Her Majesty's Ordnance, or any public body, person or party in trust for the uses or services of Her Majesty, Her Heirs or Successors, whether such real estate be held in fee simple or for any less estate during the continuance of such estate, unless the entering upon or taking of such lands or real estate be authorized by the Governor in Council, or by the Commander of Her Majesty's Forces in this Province.

Proviso:
Company not bound to start trains at unusual hours.
Further regulations may be made by the Legislature — Company not to enter upon lands required for the public service on the out leave.

XVII. And be it enacted, That whenever it shall be necessary for the said single or double Rail-road or way to intersect or cross any stream of water or water course, or any road or highway lying on the route thereof between the City of Montreal aforesaid and the said Town of Kingston, it shall be lawful for the said Company to construct their single or double Rail-road or way across or upon the same: Provided that the Company shall restore the stream or water course or road or highway thus intersected to its former state or in a sufficient manner not to impair its usefulness; and shall moreover erect and maintain during the continuance of this Company, sufficient fences upon the line or route of their said single or double Rail-road or way.

Company may construct Rail road across any stream of water.
Prov. so.

XVIII. Provided always and be it enacted, That it shall not be lawful for the said Company to cause any obstruction in, or to impede the free navigation of the River Ottawa, or of any other river or stream to or across which their Rail-road shall be carried; and if the said Rail-road shall be carried across any navigable river, the said Company shall leave such openings between the piers of their bridge or viaduct over the same, and shall construct such draw-bridge or swing-bridge over the channel of the river, and shall be subject to such regulations with regard to the opening of such draw-bridge or swing-bridge, for the passage of vessels and rafts, as the Governor in Council shall direct and make from time to time; nor shall it be lawful for the said Company to construct any wharf, bridge, pier or other work upon the public beach or bed of any navigable river or stream, or upon the land covered with the waters thereof, until they shall have submitted the plan of such work to the Governor of this Province in Council, nor until the same shall have been approved by him in Council as aforesaid.

Company not to obstruct the navigation of any river; and the place of their works to be approved by the Governor in Council, who may make regulations as to the same.

By such regulations penalties may be imposed, and how enforced.

XIX. And be it enacted, That by any regulations to be made by the Governor in Council, touching any such draw-bridge or swing-bridge as aforesaid, penalties not exceeding ten pounds in any case, may be imposed for the contravention thereof; and such penalties shall be recoverable from the said Company, or from any of their Officers or servants by whom the regulations shall have been contravened, in the manner provided with regard to other penalties mentioned in this Act; and one moiety of every such penalty shall belong to Her Majesty for the public uses of the Province, and the other moiety to the prosecutor or person suing for the same.

When Rail-road crosses a highway, ledge or flange not to rise or sink more than one inch.

XX. And be it enacted, That where the said single or double Rail-road or way shall cross any public highway, the ledge or flange of such Railway for the purpose of guiding the wheels of the carriages shall not rise above the level of such road nor sink below the level of such road more than one inch; and that where any bridge shall be erected or made by the said Company for the purpose of carrying the said double or single Rail-road or way over or across any public highway, the space of the arch of any such bridge shall be formed and shall at all times be and be continued of such breadth as to leave a clear and open space under every such arch of not less than ten feet and of a height from the surface of each public highway to the centre of such arch of not less than twelve feet, and the descent under any such bridge shall not exceed one foot in twenty feet; and that in all places where it may be necessary to erect, build or make any bridge or bridges for carrying any public carriage road or highway over the said double or single Rail-road or way, the ascent of every such bridge for the purpose of every such road shall not be more than one foot in twenty feet, and a good and sufficient fence shall be made on each side of every such bridge, which fence shall not be less than four feet above the level of such bridge.

Company to maintain gates when the Rail-road crosses a highway on a level

Opening and shutting such gates.

Penalty for contravention.

XXI. And be it enacted, That in all cases where the said intended double or single Rail-road or way shall cross any public highway on a level, the said Company shall erect, and at all times maintain a good and sufficient gate on each side of the said public highway where the said double or single Rail-road or way shall communicate with such public highway; which gates shall be constantly kept shut, except at such times as wagons, carts and other carriages passing along the said double or single Rail-road or way shall have to cross such public highway, and they shall be opened for the purpose only of letting such wagons, carts or other carriages pass through; and every driver or person entrusted with the care of any wagon, cart or other carriage, shall and he is hereby directed to cause the said gates and each of them to be shut as soon as such wagons, carts or other carriages shall have passed through, under the penalty of five shillings currency, to be recovered before any Magistrate.

Penalty on persons damaging, &c. works of Company.

XXII. And be it enacted, That if any person or persons shall do or cause to be done any act or acts whatever, whereby any building, construction or work of the said Company, or any engine, machine or structure, or any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall forfeit and pay to the said Company double the amount of damages sustained by means of such offence or injury, to be recovered in the name of the said Company by action of debt to be brought in any Court of record having jurisdiction in civil cases to the amount demanded.

XXIII. And be it enacted, That the property, affairs and concerns of the said Company, shall be managed and conducted by seven Directors, one of whom shall be chosen President, who shall hold their offices for one year, which said Directors shall be Stockholders to the amount of at least twenty shares, and be elected on the first Monday in June in each and every year, at the City of Montreal, at such time of the day as a majority of the Directors for the time being shall appoint: and public notice thereof shall be given in any newspaper or newspapers that may be published in the City of Montreal, at least one month previous to the time of holding the said election; and the said election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose in their own proper persons or by proxy; and all elections for such Directors shall be by ballot, and the persons who shall have the greatest number of votes at any election shall be Directors; and if it shall happen at any such election that two or more have an equal number of votes, in such manner that a greater number of persons than seven shall, by a plurality of votes appear to be chosen Directors, then the said Stockholders hereinbefore authorized to hold such election, shall proceed to elect by ballot until it is determined which of the said persons so having an equal number of votes shall be Director or Directors, so as to complete the whole number of seven; and the said Directors so chosen, as soon as may be after the said election shall proceed in like manner to elect by ballot one of their number to be President; and if any vacancy or vacancies shall at any time happen among the Directors by death, resignation or removal from the Province, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen by a person or persons to be nominated by a majority of the Directors.

Affairs of Company to be managed by seven Directors, one of whom shall be President.

How and at what hour Directors shall be elected.

Ballot.

Fecs.

Election of President.

Vacancies how filled.

XXIV. And be it enacted, That in case it should happen that an election of Directors should not be made on any day when pursuant to this Act it ought to have been, the said Company shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any day to hold and make an election of Directors in such manner as shall have been regulated by the By-laws and Ordinances of the said Corporation.

Default to elect not to operate a dissolution of the Company.

XXV. And be it enacted, That each Stockholder shall be entitled to the number of votes proportioned to the number of shares, which he or she shall have held in his or her own name, at least one month prior to the time of voting, according to the following rate, that is to say, one vote for each share.

Shareholders to vote in proportion to number of shares held by them respectively.

XXVI. And be it enacted, That the Directors for the time being, or the majority shall have power to make and subscribe such rules and regulations as to them shall appear needful and proper, touching the management and disposition of the stock, property, estate and effects of the said Company, and touching the duty of the Officers, clerks and servants, and all such other matters and things as appertain to the business of the said Company, and shall also have power to appoint as many Officers, clerks and servants, for carrying on the said business with such salaries and allowances as to them shall seem fit.

Directors may make rules and regulations for the management of the affairs of the Company.

XXVII. And be it enacted, That on the first Monday in September next, a meeting of the Stockholders shall be held at the City of Montreal, who in the manner hereinbefore provided shall proceed to elect seven persons to be Directors, who shall elect by ballot one of their number to be their President, and shall continue in office until the next annual meeting of the said Company, and who during such continuance in office, shall

When Directors to be elected for the first time.

Proviso : elec-
tion not to be
held until a
certain amount
of stock is
taken up.

shall discharge the duties of Directors in the same manner as if they had been elected at the annual election : Provided always, that if shares to the amount of twenty-five thousand pounds shall not be taken, then the said meeting shall not be held until that amount of stock shall have been taken up, and at least thirty days' notice thereof given in any paper or papers published in the said City of Montreal.

Amount of
Capital stock.

XXVIII. And be it enacted, That the whole Capital Stock of the said Company, inclusive of any real estate which the said Company may have or hold by virtue of this Act, shall not exceed in value one million of pounds, which amount shall be raised by the several parties hereinbefore named, and by such other person or persons who may after the passing of this Act become subscriber or subscribers towards such stock, and be held in forty thousand shares of twenty-five pounds each, and that the shares of the Capital Stock be deemed personal property, and may after the first instalment thereon shall have been paid, be transferred by the respective persons subscribing and holding the same to any other person or persons, and such transfer shall be entered and registered in a book or books to be kept for that purpose by the said Company.

Stockholders
not to be liable
beyond the
amount of their
shares.

XXIX. And be it enacted, That no Stockholder in the said Company shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Company beyond the extent of his, her or their share in the capital of the said Company not paid up.

Stock subscri-
bed to be paid
up by instal-
ments.

XXX. And be it enacted, That so soon as Directors have been appointed as aforesaid, it shall and may be lawful for them to call upon Stockholders of the said Company by giving thirty days' notice thereof, in any newspaper published in the City of Montreal, for an instalment of five per cent. upon each share which they or any of them may respectively subscribe for, and that the residue of the amount of the shares of the Stockholders shall be payable by instalments at such time and in such proportions as the Directors of the said Company may see fit, so as no such instalment shall exceed five per cent. nor become payable in less than thirty days after public notice in the newspaper or newspapers aforesaid : Provided always, that the said Directors shall not commence the construction of the said Rail-road or way until the said first instalment shall be paid in.

Proviso :
Works not to
be commenced
before one instal-
ment is paid
up.

Penalty on
Stockholders
refusing to
pay instal-
ment.

XXXI. And be it enacted, That if any Stockholder or Stockholders as aforesaid shall refuse or neglect to pay at the time required any such instalment or instalments as shall be lawfully required by the Directors as due and payable upon any share or shares, such Stockholder or Stockholders so refusing or neglecting shall forfeit such share or shares as aforesaid, with any amount which shall have been previously paid thereon, and that the share or shares so forfeited may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid thereon, shall be accounted for and applied in like manner as other monies of the said Company : Provided always, that the purchaser or purchasers shall pay the said Company the amount of the instalment required, over and above the purchase money of the share or shares so purchased by him, her or them as aforesaid, immediately after the sale and before they shall be entitled to the certificate of the transfer of such shares so purchased as aforesaid : Provided always, that thirty days' notice of the sale of such forfeited shares shall be given in any newspaper or newspapers published in the said City of Montreal, and that the instalments due may be received in redemption of any such forfeited shares at any time before the appointed day for the sale thereof.

Proviso.

Proviso.

XXXII.

XXXII. And be it enacted, That it shall be the duty of the Directors to make annual or semi-annual dividends of so much of the profits of the said Company as to them or a majority of them shall seem advisable; and that once in each year an exact and particular Statement shall be rendered of the state of their affairs, debts, credits, profits and losses; such Statement to appear on the books, and to be open to the perusal of any Stockholder at his or her reasonable request; which said Statement, attested on oath, shall be annually submitted to the three branches of the Legislature within thirty days after the opening of each Session of the Provincial Parliament, as also a Statement of the tonnage of goods and number of passengers that have been conveyed along the said Road.

Directors to make dividends, and to keep and render accounts.

Books to be open to Stockholders.

Statement to be laid annually before the Legislature.

XXXIII. And be it enacted, That whenever the sum of two hundred and fifty thousand pounds of the Capital Stock of the said Company shall have been paid up and expended in the construction of some part or parts of the said Rail-road, it shall and may be lawful for the President and Directors of the said Company, being thereto authorized by a general meeting of the Stockholders to be called for that purpose, to borrow by way of loan from such party or parties as shall be willing to advance the same, and at the lowest rate of interest for which it can be procured, such sum or sums of money not to exceed in the whole the balance of the stock not paid up for the purpose of carrying on and completing the said Rail-road; and the said road or such part thereof as may be constructed, with the income or tolls arising therefrom after paying the necessary repairs and the expense of conducting the business thereof, may be pledged as security for the payment of the principal money so borrowed and the interest thereof.

Directors may borrow a further sum to complete the road.

Security for such loan.

XXXIV. And be it enacted, That it shall and may be lawful for the President and Directors of the said Company, for the time being, or a majority of them, to enter into and make any arrangement with the Directors of any other Railway Company now or hereafter to be chartered in any portion of the country between the Cities of Montreal and Kingston, and more particularly with the Directors of any Company to be chartered to make a Rail-road from Montreal to Lachine, for the union, junction or purchase of any such Rail-road; and, in case of any purchase of such Rail-road, such road shall become to all intents and purposes a portion of the said Montreal and Kingston Rail-road, and the Capital Stock thereof shall be increased to the extent of the Capital Stock of the road so purchased.

Directors empowered to make arrangements for uniting the Company with some other Company, and more especially with the Lachine Rail-road Company.

XXXV. And be it enacted, That the said road which the said Company are by this Act authorized to make, shall be commenced within four years from the passing of the said Act, otherwise the said Act and every matter and thing therein contained shall cease and be utterly null and void, and the said Rail-road shall be completed and fit for public use within twenty years from the passing of this Act, otherwise this Act shall cease to have force and effect with regard to such parts of the said Rail-road as shall not then be completed, but shall remain in force with regard to such parts of it as shall then be completed and in use.

Road to be commenced within four years, and to be fit for use within twenty years after passing of this Act, on pain of forfeiture of privileges.

XXXVI. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next after the fact committed and not afterwards; and the defendant or defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

Limitation of actions.

XXXVII.

Rights of Her Majesty and parties saved when not expressly mentioned.

XXXVII. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way whatsoever the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

Legislature may alter provisions of this Act at any time.

XXXVIII. And be it enacted, That notwithstanding the privileges hereby conferred, the Legislature may at any time hereafter make such addition to this Act, or such alteration of any of its provisions, as they may think proper for affording just protection to the public, or to any person or persons, body politic or corporate, in respect to their estate, property or rights or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right, public or private, that may be affected by any of the powers given by this Act.

Public Act.

XXXIX. And be it enacted, That this Act shall be deemed and taken to be a public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace and other persons, without being specially pleaded.

SCHEDULE A.

Know all men by these presents, that I (or we) to wit,
do hereby in consideration of (being
the purchase money) paid to me (or us) by the *Montreal and Kingston Rail-road Company*, the receipt whereof is hereby acknowledged, grant, bargain, sell, convey, and confirm unto the said *Montreal and Kingston Rail-road Company*, their successors and assigns for ever, all that certain parcel or tract of land situate (*here describe the land*) the same having been selected and laid out by them for the purposes of their road: To have and to hold the said land and premises, together with the hereditaments and appurtenances thereto, to the said *Montreal and Kingston Rail-road Company*, their successors and assigns for ever.

Witness hand and seal, this day of 18 .
Signed, Sealed and }
Delivered in presence of }

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DECIMO
VICTORIÆ REGINÆ.

CAP. CVIII.

An Act to incorporate the Wolfe Island, Kingston and Toronto Rail-road Company.

Reserved for the signification of Her Majesty's pleasure, 9th June, 1846.

The Royal Assent given by Her Majesty in Council, on the 30th October, following ; and Proclamation made thereof by His Excellency EARL CATHCART, in the Canada Gazette of December 26th, 1846.

WHEREAS it is desirable for the general benefit of the country, that a chain of Preamble.
Railway should be constructed from the western extremity of the Province, along the north side of Lake Ontario to Montreal ; And whereas the proposed line of the Great Western Rail-road Company is the proper and most eligible route for such a Work, from the said western extremity of the Province to the Town of Hamilton, in the Gore District ; And whereas it is proposed to extend the said line of the Great Western Rail-road from the Town of Kingston in the Midland District, to the City of Toronto, in the Home District ; And whereas it is also proposed to extend a branch of the said Rail-road from the Town of Kingston across Wolfe Island, in the Midland District ; And Whereas Henry Gildersleeve, William Wilson, Anthony B. Hawke, Charles Stuart, James Brown, Junior, Samuel Rowlands, Alexander Campbell and others, have petitioned for the passing of a Law, incorporating a Joint Stock Company for the purpose of constructing a single or double track, wooden or iron Rail-road or way, from the Town of Kingston in the Midland District, to the City of Toronto, in the Home District ; And whereas it is expedient to incorporate a Joint Stock Company for the purposes hereinafter named : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Henry Gildersleeve, William Wilson, Anthony B. Hawke, Charles Stuart, James Brown, the younger, Samuel Rowlands, Alexander Campbell, William James Chaplin, George Hudson, John Moss, Matthew Uzielli, Abel Lewis Gower, Gregory Scale Walters, Henry John Enthover, Thomas Smith, Samuel Laing, Peter Buchanan, Sir Allan N. MacNab, George S. Tiffany, Robert W. Harris, Henry McKinstry, Peter Carroll, John Tucker Williams, Edmund Murney, Adam H. Meyers, John A. MacDonald, Malcolm Cameron, James B. Ewart, the Honorable John Hamilton, John Counter, Francis A. Harper, Colin Miller, George B. Hall, Henry Smith, the younger, and Benjamin Seymour, with all such other persons as shall become

Certain persons incorporated as *The Wolfe Island, Kingston and Toronto Rail-road Company.*

Corporate
powers.

become Stockholders in such Joint Stock or Capital as is hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic in fact, by and under the name and style of *The Wolfe Island, Kingston and Toronto Rail-road Company*; and by that name they and their successors shall and may have continued succession, and by such name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and concerns whatsoever, and they and their successors may and shall have a Common Seal, and may change and alter the same at their will and pleasure, and also that they and their Successors by the same name of *The Wolfe Island, Kingston and Toronto Rail-road Company*, shall by law be capable of purchasing, having and holding to them and their Successors, any estate, real or personal or mixed, to and for the use of the said Company, and of letting, conveying and otherwise departing therewith, for the benefit and on account of the said Company, from time to time as they shall deem necessary and expedient: Provided always, nevertheless, that the real estate to be held by the said Company shall be only such as may be required to be held by them for the purpose of making, using and preserving the said Rail-road, and for objects immediately connected therewith.

May hold real
estate.

Proviso: Real
estate limited.

Company may
construct Rail-
road over any
part of the
country be-
tween King-
ston and
Toronto.

II. And be it enacted, That the said Company and their agents or servants shall have full power under this Act, to lay out, construct, make and finish a double or single iron or wooden Rail-road or way, at their own costs and charges, on and over any part of the country lying between the said Town of Kingston and the said City of Toronto, and to take, convey and transport thereon passengers, goods and property, either in carriages used and propelled by the force of steam, or by the force of animals, or any other mechanical or other power, or by any combination of power which the said Company may choose to employ.

Company may
contract, &c,
with land-
owners.

III. And be it enacted, That the said Company are hereby empowered to contract, compound, compromise and agree with the owner or owners, occupier or occupiers of any lands upon which they may determine to construct the said Rail-road either by purchase of so much of the said land and privileges as they shall require for the purposes of the said Company, or for the damages which he, she or they shall and may be entitled to receive of the said Company in consequence of the said intended Rail-road being made and constructed in and upon his, her or their respective lands, and in case of any disagreement between the said Company and the owner or owners, occupier or occupiers as aforesaid, it shall and may be lawful from time to time for such owner or occupier, so disagreeing with the said Company, either upon the value of the lands and tenements, or private privileges proposed to be purchased, or upon the amount of damages to be paid to them as aforesaid, to nominate and appoint one indifferent person, and for the said Company to nominate one other indifferent person, who together with one other person to be chosen by the persons so named, before proceeding to business, or, in the event of their disagreement as to the choice of such other person, to be appointed by the Judge of the District Court for the District in which the lands are situate before the others proceed to business shall be Arbitrators to award, determine, order and adjudge the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, the award of the majority of whom shall be final; and the said Arbitrators shall be and are hereby required to attend at some convenient place in the vicinity of the said intended Rail-road to be

Appointment
of Arbitrators,
in case the
Company and
the parties in-
terested cannot
agree.

Third Arbi-
trator how
appointed.

appointed

appointed by the said Company, after eight days' notice given for that purpose by the said Company, then and there to arbitrate and award, adjudge and determine such matters and things as shall be submitted to their consideration by the parties interested : And that each Arbitrator shall be sworn before some one of Her Majesty's Justices of the Peace, in and for the District in which the subject matters of the said disagreement shall originate, any of whom may be required to attend the said meeting for that purpose, well and truly to assess the damages between the parties according to the best of his judgment : Provided always, that any award made under this Act shall be subject to be set aside on application to the Court of Queen's Bench, in the same manner, and on the same grounds as in ordinary cases of submission by the parties ; in which case a reference may be again made to arbitration as hereinbefore provided.

Arbitrator to be sworn.

Proviso : Award may be set aside in certain cases.

IV. And be it enacted, That whatever sum of money may be finally awarded to any person or persons for compensation for property required to be occupied, or for damages occasioned by the interference of the said Company with his or their rights or privileges, shall be paid within three months from the time of the same being awarded, and in case the said Company shall fail to pay the same within that period, then their right to assume any such property or commit any act in respect of which such sum of money was awarded, shall wholly cease, and it shall be lawful for the proprietor to resume his occupation of such property, and to possess fully his rights and privileges in respect thereof, free from any claim or interference from the said Company.

Sum of money awarded to be paid within three months, or the right of the Company to take possession to be forfeited.

V. And be it enacted, That where an award shall be made for more money as an indemnification or satisfaction for any lands, grounds, hereditaments or property, or for any damages done to any lands, tenements, hereditaments or property of any person or persons whomsoever, than had previously been offered by or on behalf of the said Company, then all the expenses of holding the said arbitration, which shall be settled by the Arbitrators, shall be defrayed by the said Company ; but if any award shall be given for the same or a less sum than had been previously offered by and on behalf of the said Company, or in case no damages shall be awarded, (when the dispute is for damages only) then and in every such case the costs and expenses shall be settled in like manner by the Arbitrators, and paid by the party or parties with whom the said Company shall have had such dispute ; which said costs and expenses having been so settled, shall and may be deducted out of the money so awarded, when the same shall exceed such costs and expenses as so much money advanced to and for the use of such person or persons, and the payment or tender of the remainder of such money shall be deemed and taken, to all intents and purposes, to be a payment or tender of the whole sum so awarded to be paid by the said Company to such person or persons as aforesaid.

Expenses of award to be defrayed by Company in certain cases, and vice versa.

May be deducted from the compensation in certain cases.

VI. And be it enacted, That whenever any lands or grounds required by the said Company for the purposes of the said Rail-road are held or owned by any person or persons, bodies politic, corporate or collegiate, whose residence may not be within this Province, or unknown to the said Company, or where the titles to any such lands or grounds may be in dispute, or when the owner or owners of such lands or grounds are unwilling or unable to treat with the said Company for the sale thereof, or to appoint Arbitrators as aforesaid, or refuse or neglect so to do for the space of one calendar month after having been thereunto required by the said Company, it shall and may be lawful for the said Company to nominate one indifferent person, and for the Judge of the District Court for the District in which such lands are situate, on the application

Proceedings when lands required by Company may belong to parties not residing in the Province, refusing to appoint an Arbitrator, &c.

Award to be
enregistered.

Costs of arbi-
tration how
paid.

Proceedings
when lands are
held under
mortgage.

Proviso :
When the
compensation
exceeds the
mortgage mo-
ney.

When road
shall pass
through lands
belonging to
any tribe of
Indians, com-
pensation to be
paid, and Arbi-
trator appoint-
ed by the head
of the Indian
Department.

application of the said Company, to nominate and appoint one other indifferent person, who, together with one other person, to be chosen by the persons so named before proceeding to business, or, in the event of their disagreement as to the choice of such other person, to be appointed by the said Judge before the others proceed to business, shall be Arbitrators to award, determine and adjudge and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same for the said lands or grounds or damages as aforesaid, and the decision of the majority of such Arbitrators shall be final, which said amount so awarded the said Company are to pay or cause to be paid to the several parties entitled to the same when demanded; and also, that a record of such award or arbitration shall be made up and signed by the said Arbitrators, or a majority of them, specifying the amount of such award and the costs of such arbitration, which may be settled by the said Arbitrators, or a majority of them, which record shall be deposited in the Registry Office of the County in which such lands or grounds are situate: And also, that the expenses of the said arbitration shall be paid by the said Company and by them deducted from the amount of such award on payment thereof to the parties entitled to receive the same.

VII. And be it enacted, That whenever any lands or grounds required to be used or occupied by the said Company, shall be held under mortgage, it shall and may be lawful to and for the said Company, to nominate one indifferent person and for the Judge of the District Court for the District in which such lands are situate, on the application of the said Company, to nominate and appoint one other indifferent person, who, together with one other person, to be chosen by the persons so named before proceeding to business, or, in the event of their disagreeing as to the choice of such other person, to be appointed by the said Judge before the others proceed to business, shall be Arbitrators to decide on and assess the value of the said lands or grounds, or the amount of damages to be paid to the owners thereof, as aforesaid, and upon such decision or award, the said Company shall pay or cause to be paid the amount of such award to the mortgagee, as a payment for and on account of the said mortgage: And upon such payment being so made, the mortgagor and mortgagee are hereby required and compelled to join in conveying the said lands or grounds, to the said Company and their successors; Provided always, that when the amount of such award shall exceed the amount secured or payable on such mortgage, the said Company after the amount due on such mortgage, shall pay or cause to be paid the balance of the said award, to the mortgagor or other party entitled to receive the same.

VIII. And be it enacted, That if the said double or single iron or wooden Railroad, or way, shall pass through any tract of land or property belonging to or in possession, of any tribe of Indians in this Province, or if any act occasioning damage to their property or their possessions, shall be done under the authority of this Act, compensation shall be made to them therefor, in the same manner as is provided with respect to the property, possession or rights of other individuals, and that whenever it shall be necessary that Arbitrators be chosen by the parties for settling the amount of such compensation, the Chief Officer of the Indian Department within this Province is hereby authorized and required to name an Arbitrator on behalf of the said Indians, and the amount which shall be awarded in any case, shall be paid where the said lands belong to any tribe or body of Indians, to the said Chief Officer, for the use of such tribe or body.

IX. And be it enacted, That whenever it shall be necessary for the said Company, to occupy any part or parts of the land or ground belonging to the Queen's Majesty, or which may, at any time heretofore have been specially set apart and reserved, or which are designated or commonly known as Crown lands, or lands reserved for military purposes, they shall first apply for, and obtain the license or consent of Her said Majesty, Her Heirs, or Successors, under the hand and seal of the Governor or person administering the Government of this Province for the time being, and having obtained such license and consent, it shall and may be lawful for them at any time or times, to enter into and upon, have, hold, use, occupy and enjoy any part or parts of the said lands or grounds for the purposes of this Act, or for any other purpose connected therewith.

When lands belong to Her Majesty, or are used for public purposes, they shall not be taken without leave.

X. And be it enacted, That after any lands or grounds shall be set out or taken as aforesaid, by the said Company, for the purpose of making and completing the said double or single wooden or iron Rail-road or way, or for other purposes and conveniences aforesaid, it shall and may be lawful for all bodies politic, corporate or collegiate, corporations, communities, guardians, executors, administrators and all other trustees or persons whomsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other person or persons, who are or shall be seized, possessed of, or interested in any lands or grounds which shall be required as aforesaid, or any part thereof, to contract for, sell and convey unto the said Company, their successors or assigns, all or any part of such lands or grounds, which may from time to time be required as aforesaid, and that all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law, to all intents and purposes whatsoever; any law statute, usage or custom to the contrary thereof in any wise notwithstanding, and all bodies politic, corporate or collegiate, and all persons whatsoever, so conveying as aforesaid, are hereby indemnified for what he, she or they, or any of them, shall respectively do by virtue of or in pursuance of this Act.

Certain parties who could not otherwise alienate, empowered to convey lands for the purposes of the said Rail-road.

XI. And be it enacted, That all deeds and conveyances for lands to be conveyed to the said Company for the purposes of this Act, shall and may as far as the title to the said land or the circumstances of the party making such conveyance will admit, be made in the form given in the Schedule of this Act, marked A, and all Registrars are hereby required and authorized to enter in their Registry Book, such deeds on the production thereof, and proof of execution without any memorial, and to minute such on the said deed, and the said Company are to pay to the said Registrar for so doing the sum of two shillings and six pence, and no more.

Deeds and conveyances to be in form of Schedule A.

XII. And be it enacted, That the said Company shall have full power and authority to explore the country lying between the said Town of Kingston and the said City of Toronto, and to designate and establish, and for the said Company to take, appropriate, have, hold, to and for the use of them and their successors, the line and boundaries of a double or single Rail-road, with the necessary Railways to connect the said Town of Kingston and the said City of Toronto; and for the purposes aforesaid, the said Company and their agents, servants and workmen are hereby authorized and empowered to enter into and upon the lands and grounds of or belonging to Her Majesty, Her Heirs and Successors, or any other person or persons, bodies politic or corporate, and to survey

Power given to explore the country and hold the boundaries of the said road.

And to erect
buildings, &c.,
for like pur-
poses.

To place ma-
terials, &c.

Bridges, &c.

Satisfaction
to be made,
and as little
damage as pos-
sible to be
done.

Company not
to interfere
with any fee
simple, &c.
unless by con-
sent or under
the provisions
of this Act.

Rail-road,
&c. vested in
Company.

Tolls may be
collected.

survey and take levels of the same, or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said double or single Rail-road, and all such matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing and using the said intended Rail-road, and also to make, build, erect and set up in and upon the route of the said Rail-road, or upon the line adjoining, or near the same, all such works, ways, roads and conveniences as the said Company shall think requisite and necessary for the purposes of the said Rail-road, and also from time to time to alter, repair, amend, widen or enlarge the same, or any other of the conveniences above mentioned, as well for carrying and conveying of all manner of materials necessary for making, erecting, furnishing, altering, repairing, widening or enlarging the works of or belonging to the said Rail-road, and also to place, lay, work and manufacture the said materials on the ground near to the place or places where the said works or any of them are or shall be intended to be made, erected, repaired, or done, and to build and construct the several works and erections belonging thereto, and also to make, maintain, repair and alter any fences or passages under or through the said Rail-road, or which shall communicate therewith, and to construct, erect and keep in repair any piers, arches or other works, in and upon and across any rivers or brooks, for making, using, maintaining and repairing the said Rail-road and side paths, and also to construct, make and do all other matters and things which they shall think necessary and convenient for the making, effecting, preserving and improving, completing and using the said Rail-road in pursuance of and within the true meaning of this Act, they the said Company doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinbefore mentioned, for all damages to be sustained by the owners or occupiers of such lands, tenements and hereditaments.

XIII. And be it enacted, That the said Company, or their agents or servants, at any time after the passing of this Act, under and by virtue of its provisions, shall not in constructing, building, and finishing a double or single iron or wooden Rail-road, or way, as aforesaid, on any part or portion of the country lying between the said Town of Kingston and the said City of Toronto, in any degree interfere with, or encroach on any fee simple, right or private easement, or privilege of any individual now holding or enjoying the same, or entitled thereto without permission first had, and obtained either by consent of the owner thereof, or by virtue of the reference authorized by this Act.

XIV. And be it enacted, That the said double or single Rail-road, or way, and all materials which shall be from time to time got or provided for constructing, building or repairing the same, and all tolls on goods, wares and merchandize, or passengers as hereinafter mentioned, shall be, and the same are hereby vested in the said Company, and their successors for ever.

XV. And be it enacted, That so soon as the said double or single iron or wooden Rail-road or way, shall be so far completed as to be capable of being used, it shall and may be lawful for the said Company through their President and Directors, from time to time to fix and regulate the tolls, and charges to be received for transportation of all goods, wares, merchandize, and passengers thereon, or any other convenience, erection, or improvement, built, occupied or owned by the said Company, to be used therewith, and it shall and may be lawful for them to ask, demand, receive, recover, and take the said

said tolls, dues or charges, to and for their own proper use and benefit, and also that they shall have full power to regulate the time and manner in which goods and passengers shall be transported, taken and carried on the said double or single iron or wooden Rail-road or way, as well as the manner of collecting all tolls and dues on account of transportation and carriage, and shall have power to erect and maintain such Toll-houses, and other buildings, for the accommodation and proper transaction of their business, as to them may seem necessary.

And Toll-houses erected:

XVI. And be it enacted, That whenever it shall be necessary for the said single or double Rail-road or way, to intersect, or cross any stream of water, or water-course, or any road or highway, lying in the route thereof, between the said Town of Kingston and the said City of Toronto, it shall and may be lawful for the said Company to construct their single or double Rail-road across, or upon the same; Provided always, that the Company shall restore the stream or water course, or road or highway thus intersected to its former state, or in a sufficient manner not to impair its usefulness, and shall moreover, during the continuance of this Company, make and repair sufficient fences upon the line or route of their said single or double Rail-road or way.

Rail-road may cross any stream or highway, &c.

Proviso: Stream to be restored.

XVII. And be it enacted, That when the said single or double Rail-road or way, shall cross any public highway, the ledge or flange of such Railway, for the purpose of guiding the wheels of the carriages, shall not rise above the level of such road, nor sink below the level of such road, more than one inch; and that when any bridge shall be erected or made by the said Company, for the purpose of carrying the said double or single Rail-road or way over or across any public way, the span of the arch of such bridge shall be formed, and shall at all times be and be continued of such breadth as to leave a clear and open space under every such arch of not less than fourteen feet, and of a height from the surface of such public highway to the centre of such arch, of not less than twelve feet, and the descent under any such bridge, shall not exceed one foot in ten feet, and that in all places where it may be necessary to erect, build, or make any bridge or bridges, for carrying any public carriage road or highway, over the said double or single Rail-road or way, the ascent of every such bridge, for the purpose of every such road, shall not be more than one foot in ten feet; and a good and sufficient fence shall be made on each side of every such bridge, which fence shall not be less than four feet above the level of such bridge.

When Rail-road crosses a highway, the flange not to sink nor rise more than one inch.

Dimensions of bridges.

Fences to be made on bridges.

XVIII. And be it enacted, That in all cases where the said intended double or single Rail-road or way shall cross any public highway on a level, the said Company shall erect, and at all times maintain a good and sufficient gate on each side of the said public highway, where the said double or single Rail-road or way shall communicate with such public highway, which gates shall be constantly kept shut, except at such times as wagons, carts and other carriages passing along the said double or single Rail-road or way shall have to cross such public highway, and they shall be opened only for the purpose of letting such wagons, carts and other carriages pass through, and every driver or person entrusted with the care of any wagon, cart or other carriage, shall and is hereby directed to cause the said gates and each of them to be shut as soon as such wagon, cart or other carriage shall be passed through, under the penalty of five shillings, currency, to be recovered before any Magistrate.

When Rail-road crosses a highway, Company to erect gates.

Penalty for leaving gates open.

Penalty on persons damaging or obstructing the Rail-road and other works.

XIX. And be it enacted, That if any person or persons shall do, or cause to be done, any act or acts whatsoever whereby any building, work or construction of the said Company, or any engine, machine or structure, or any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall forfeit and pay unto the said Company, double the amount of damage sustained by means of such offence or injury, to be recovered in the name of the said Company, by action of debt to be brought in any Court of Record in that part of the Province formerly Upper Canada.

Company to be managed by nine Directors.

Qualification of Directors.

Election to be by ballot.

President to be elected.

Vacancies how filled.

Default to elect not to operate a dissolution of Company.

Ratio of votes to shares.

XX. And be it enacted, That the property, affairs and concerns of the said Company, shall be managed and conducted at the said Town of Kingston by nine Directors, one of whom shall be chosen President, who shall hold their office for one year, which said Directors shall be Stockholders to the amount of at least twenty shares, and four of whom besides the President shall be residents of the Town of Kingston or within seven miles thereof, and be elected on the first Monday in the month of June in each and every year, at the Town of Kingston, at such time of the day as a majority of the Directors for the time being shall appoint, and public notice thereof shall be given in any newspaper or newspapers published in the Midland, Newcastle, and Home Districts at least one month previous to the time of holding the said election, and the said election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose in their own proper persons or by proxy, and all elections for such Directors shall be by ballot, and the persons who shall have the greatest number of votes at any election shall be Directors, and if it shall happen at any such election, that two or more shall have an equal number of votes in such manner that a greater number of persons than nine shall, by a plurality of votes, appear to be chosen Directors, then the said Stockholders hereinbefore authorized to hold such election shall proceed to elect by ballot until it is determined which of the said persons so having an equal number of votes shall be Director or Directors, so as to complete the whole number of nine, and the said Directors so chosen, as soon as may be after the said election, shall proceed in like manner to elect by ballot one of their number to be President, and if any vacancy or vacancies shall at any time happen among the Directors by death, resignation or removal from the Province, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen by a person or persons to be nominated by a majority of the Directors.

XXI. And be it enacted, That in case it shall happen that an election of Directors should not be made on any day when pursuant to this Act it ought to have been made, the said Company shall not for that cause be dissolved, but it shall and may be lawful on any day to hold and make an election of Directors in such manner as shall have been regulated by the By-laws and Ordinances of the said Corporation.

XXII. And be it enacted, That each Stockholder shall be entitled to the number of votes proportioned to the number of shares which he or she shall have had in his or her own name at least one month prior to the time of voting according to the following rates, that is to say: one vote for each share not exceeding four; five votes for six shares; six votes for eight shares; seven votes for ten shares, and one vote for every five shares above ten.

XXIII. And be it enacted, That the Directors for the time being or the majority shall have power to make and subscribe such Rules and Regulations as to them shall appear needful and proper touching the management and disposition of the stock, property, estate and effects of the said Company, and touching the duty of the Officers, clerks and servants, and all such other matters and things as appertain to the business of the said Company, and shall also have power to appoint as many Officers, clerks and servants for carrying on the said business with such salaries and allowances as to them shall seem fit.

Rules and regulations to be made by the Directors: their other powers of management, &c.

XXIV. And be it enacted, That on the second Monday in the month of September next, a meeting of the Stockholders shall be held at the Town of Kingston who, in the manner hereinbefore provided, shall proceed to elect nine persons to be Directors, who shall elect by ballot one of their number to be their President, and who shall continue in office until the next annual meeting of the said Company, and who during such continuance in office shall discharge the duties of Directors in the same manner as if they had been elected at the annual election: Provided always, that if shares to the amount of twenty-five thousand pounds shall not be taken, then the said meeting shall not be held until that amount of stock shall have been taken up, and at least thirty days' notice thereof given in any paper or papers published in the said Districts.

First meeting of the Stockholders.
And first election of Directors and President.

Proviso: Election not to be had until a certain amount is subscribed.

XXV. And be it enacted, That the whole Capital Stock of the said Company, inclusive of any real estate which the said Company may have or hold by virtue of this Act, shall not exceed in value one million pounds, which amount shall be raised by the several parties hereinbefore named, and by such other person or persons who may after the passing of this Act become subscriber or subscribers towards such stock, and be held in forty thousand shares of twenty-five pounds each, and that the shares of the Capital Stock be deemed personal property, and may after the first instalment thereon shall have been paid, be transferred by the respective persons subscribing and holding the same to any other person or persons, and such transfer shall be entered and registered in a book or books to be kept for that purpose by the said Company,

Amount of Capital Stock.

Shares to be personal property and transferable:

XXVI. And be it enacted, That no Stockholder in the said Company shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Company beyond the extent of his, her or their share or shares in the capital of the said Company not paid up.

Stockholders not to be liable beyond extent of their shares respectively.

XXVII. And be it enacted, That so soon as Directors have been appointed as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company by giving sixty days' notice thereof in any newspaper published in each of the said Districts for an instalment of five per cent. upon each share which they or any of them may respectively subscribe for, and that the residue of the amount of the Shares of the Stockholders shall be payable by instalments, at such times and in such proportions as the Directors of the said Company may see fit, so as no such instalment shall exceed five per cent. nor become payable in less than thirty days after public notice in the newspapers aforesaid: Provided always, that the said Directors shall not commence the construction of the said Rail-road or way, until the said first instalment shall be paid in.

Calls for instalments upon shares how to be made.

Proviso: first instalment to be paid before commencing the road.

XXVIII. And be it enacted, That if any Stockholder or Stockholders as aforesaid, shall refuse or neglect to pay at the time required, any such instalment or instalments as shall

Forfeitures of shares upon non-payment of instalments.

Proviso.

Proviso.

shall be lawfully required by the Directors as due and payable upon any share or shares, such Stockholder or Stockholders so refusing or neglecting, shall forfeit such share or shares as aforesaid, with any amount that shall have been previously paid thereon; and that the share or shares so forfeited, may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid thereon, shall be accounted for and applied in like manner as other monies of the said Company: Provided always, that the purchaser or purchasers shall pay the said Company the amount of the said instalments required over and above the purchase money of the share or shares so purchased by him, her or them as aforesaid, immediately after the sale, and before they shall be entitled to the Certificate of the transfer of such shares so purchased as aforesaid: Provided always, that thirty days' notice of the sale of such forfeited shares shall be given in any newspaper published in each of the said Districts, and that the instalments due may be received in redemption of any such forfeited shares, at any time before the day appointed for the sale thereof.

Annual or semi-annual dividends to be made by the Directors. Statements to be prepared and submitted to the Stockholders and to the Legislature

XXIX. And be it enacted, That it shall be the duty of the Directors to make annual or semi-annual dividends of so much of the profits of the said Company, as to them or a majority of them shall seem advisable; and that once in each year an exact and particular statement shall be rendered of the state of their affairs, debts, credits, profits and losses, such statement to appear in the books, and to be open to the perusal of any Stockholder at his or her reasonable request, which said statement, attested on oath, shall be submitted annually to the three branches of the Legislature within thirty days after the opening of each Session of the Provincial Parliament, as also a statement of the tonnage of goods, and number of passengers that have been conveyed along the said Road.

Company may borrow further sum of money when £250,000 of the Capital Stock is paid up.

Amount of loan limited: property of the Company may be mortgaged for security.

XXX. And be it enacted, That whenever the sum of two hundred and fifty thousand pounds of the Capital Stock of the said Company shall have been paid up and expended in the construction of some part or parts of the said Rail-road, it shall and may be lawful for the President and Directors of the said Company being thereto authorized by a General Meeting of the Stockholders to be called for that purpose, to borrow by way of loan from such party or parties as shall be willing to advance the same, and at the lowest rate of interest for which it can be got or procured, such sum or sums of money not to exceed the balance of the Stock not paid in, for the purpose of carrying on and completing the said Rail-road; and the said road or such parts thereof as may be constructed, with the income of Tolls arising therefrom, after paying the necessary expenses of conducting the business thereof, and also the repairs thereof, may be pledged as security for the payment of the principal money so borrowed and the interest thereof.

Road to be commenced and completed within a certain time, and pain of forfeiture of privileges.

XXXI. And be it enacted, That the said Rail-road which the said Company are by this Act authorized to make, shall be commenced within four years from the passing of this Act; otherwise the said Act, and every matter and thing therein contained shall cease and be utterly void; and the said Rail-road shall be completed and fit for public use within ten years from the passing of this Act; otherwise this Act shall cease to have force and effect with regard to such parts of the said Rail-road as shall not then be completed, but shall remain in force with regard to such parts of it as shall then be completed and in use.

XXXII. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months after the fact committed, and not afterwards, and the defendant or defendants in such action or suit may plead the general issue and give this Act and the special matter in evidence on the trial.

Limitation of actions.

XXXIII. And be it enacted, That this Act shall be deemed and taken to be a public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace and other persons without being specially pleaded.

Public Act.

XXXIV. And be it enacted, That notwithstanding the privileges hereby granted and confirmed, the Legislature may at any time hereafter make such addition to this Act or such alterations of any of the provisions thereof as they may think fit and proper for affording just protection to the public, or to any person or persons, bodies politic or corporate in respect to their estate, property or rights, or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right, public or private, that may be affected by any of the powers given by this Act.

Legislature may alter or amend this Act.

XXXV. And be it enacted, That the Company by this Act incorporated, may at any time within four years from the day of passing thereof, extend their line of Rail-road from the said Town of Kingston to the Boundary Line of the Province of Canada, opposite Cape Vincent, in the State of New York, one of the United States of America, in manner following, that is to say: by means of steam communication (for the purposes of the said road only) from the said Town of Kingston to any point on the northern shore of Garden Island, and thence by Rail-road across the said Garden Island, and across a small channel of the River St. Lawrence to Wolfe Island, and thence across Wolfe Island to any convenient point on the southern shore of the said Wolfe Island, and thence by means of steam communication (for the purposes of the said road only) to the Boundary Line of the said Province, opposite Cape Vincent as aforesaid.

After a certain time Company may extend their line of road to the boundary of the Province, crossing Garden Island and Wolfe Island.

XXXVI. And be it enacted, That if the said Company shall determine to extend their line of road as provided for in the foregoing section, they shall cause thirty days' public notice to be given in all the newspapers printed and published in the Town of Kingston, of such intention, and the line of road shall be thereupon considered to be extended accordingly, and all the clauses, provisions and enactments of this Act shall thereupon be held to be extended to such increased line as fully to all intents and purposes, as though the same had been originally included in the route of the said road.

After having given thirty days' notice of their intention so to extend the same.

SCHEDULE A.

FORM OF CONVEYANCE.

Know all men by these Presents, that I, A. B. of
hereby in consideration of (*here state the purchase money*) paid to me by the Wolfe Island, Kingston and Toronto Rail-road Company, the receipt whereof is hereby acknowledged, grant, bargain, sell, convey and confirm unto the said Wolfe Island,
Kingston

Kingston and Toronto Rail-road Company, their Successors and Assigns for ever, all that certain tract or parcel of land situate (*here describe the land*) the same having been selected and laid out by the said Company for the purposes of their road. To Have and to Hold the said land and premises together with the hereditaments and appurtenances thereto to the said Wolfe Island, Kingston and Toronto Rail-road Company, their Successors and Assigns for ever.

Witness my hand and Seal, this

day of

18 .

Signed, Sealed and Delivered }
in presence of }

[L. S.]

MONTREAL:—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DECIMO
VICTORIÆ REGINÆ.

CAP. CIX.

An Act to incorporate the Peterborough and Port Hope Railway Company.

Reserved for the signification of Her Majesty's pleasure, 9th June, 1846.

The Royal Assent given by Her Majesty in Council, on the 30th October, following ; and Proclamation made thereof by His Excellency EARL CATHCART, in the Canada Gazette of December 26, 1846.

WHEREAS it is desirable for the general benefit of the Districts of Newcastle and Colborne, that a Railway should be constructed from the Town of Peterborough to Lake Ontario, at or near Port Hope ; and whereas it is expedient to incorporate a Joint Stock Company for the purposes hereinafter named : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada* ; and it is hereby enacted by the authority of the same, That George Barker Hall, David Smart, James Hall, Frederick Ferguson, Marcus F. Whitehead, Francis Burton, Henry H. Meredith, Joseph Graham, Robert Waddell, James Smith, James Harvey, William H. Wrighton, Thomas Benson, Thomas Ward, Nesbitt Kirchoffer, Francis Beamish, John David Smith, Edward Hickman, and Elias P. Smith, with all such other persons as shall become Stockholders, in such Joint Stock or Capital as is hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic in fact, by and under the name and style of *The Peterborough and Port Hope Railway Company* ; and by that name they and their successors shall and may have continued succession, and by that name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and concerns whatsoever ; and they and their successors may and shall have a Common Seal, and may change and alter the same at their will and pleasure ; and also that they and their successors by the same name of *The Peterborough and Port Hope Railway Company*, shall by law be capable of purchasing, having and holding to them and their successors, any estate, real or personal or mixed, to and for the use of the said Company, and of letting, conveying and otherwise departing therewith, for the benefit and on account of the said Company, from time to time as they shall deem necessary and expedient : Provided always, nevertheless, that the real estate to be held by the said Company shall be only such as may be required to be held by them for the purpose of making, using and preserving the said Rail-road, and for objects immediately connected therewith.

Preamble.

Certain persons incorporated as the *Peterborough and Port Hope Railway Company*.

Corporate powers.

Common Seal.

May hold real and personal estate.

Proviso : real estate limited.

Elections to be
by ballot.

in their own proper persons or by proxy, and all elections for such Directors shall be by ballot, and the persons who shall have the greatest number of votes at any election shall be Directors, and if it shall happen at any such election that two or more shall have an equal number of votes in such manner that a greater number of persons than nine shall by a plurality of votes appear to be chosen Directors, then the said Stockholders hereinbefore authorized to hold such election, shall proceed to elect by ballot until it is determined which of the said persons so having an equal number of votes shall be Director or Directors so as to complete the whole number of nine, and the said Directors so chosen, as soon as may be after the said election, shall proceed in like manner to elect by ballot one of their number to be President, and if any vacancy or vacancies shall at any time happen among the Directors by death, resignation or removal from the Province, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen by a person or persons to be nominated by a majority of the Directors.

Election of
President.

Default to
elect not to
operate a dis-
solution of
Company.

XXI. And be it enacted, That in case it should happen that an election of Directors should not be made on any day when pursuant to this Act it ought to have been, the said Company shall not for that cause be dissolved, but it shall and may be lawful on any day to hold and make an election of Directors in such manner as shall have been regulated by the By-laws and Ordinances of the said Corporation.

Ratio of votes
to shares.

XXII. And be it enacted, That each Stockholder shall be entitled to the number of votes proportioned to the number of shares which he or she shall have had in his or her own name at least one month prior to the time of voting, according to the following rates, that is to say: one vote for each share not exceeding four; five votes for six shares; six votes for eight shares; seven votes for ten shares, and one vote for every five shares above ten.

Directors to
make Rules
and Regula-
tions.

XXIII. And be it enacted, That the Directors for the time being or the majority of them shall have power to make and subscribe such Rules and Regulations as to them shall appear needful and proper touching the management and disposition of the stock, property, estate and effects of the said Company, and touching the duty of the Officers, clerks and servants, and all such other matters and things as appertain to the business of the said Company, and shall also have power to appoint as many Officers, clerks and servants for carrying on the said business, with such salaries and allowances as to them shall seem fit.

And to appoint
Officers and
servants.

First Meeting
of Stockhol-
ders.

XXIV. And be it enacted, That on the second Monday of the month of September next, a meeting of the Stockholders shall be held at the Town of Peterborough, who in the manner hereinbefore provided shall proceed to elect nine persons to be Directors, who shall elect by ballot one of their number to be their President, and who shall continue in office until the next annual meeting of the said Company, and who during such continuance in office shall discharge the duties of Directors in the same manner as if they had been elected at the annual election: Provided always, that if shares to the amount of two thousand five hundred pounds shall not be taken, then the said meeting shall not be held until that amount of stock shall have been taken up, and at least thirty days' notice thereof given in any paper or papers published in the Colborne and Newcastle Districts.

Proviso:
Election not
to be held un-
less a certain
amount of
stock be taken
up.

XXV. And be it enacted, That the whole Capital Stock of the said Company, inclusive of any real estate which the said Company may have or hold by virtue of this Act, shall not exceed in value one hundred thousand pounds, or such sum as shall be sufficient for the purposes contemplated by this Act, which amount shall be raised by the several parties hereinbefore named, and by such other person or persons who may after the passing of this Act become subscriber or subscribers towards such stock, and be held in ten thousand shares of ten pounds each, and that the shares of the Capital Stock be deemed personal property, and may after the first instalment thereon shall have been paid, be transferred by the respective persons subscribing and holding the same to any other person or persons, and such transfer shall be entered and registered in a book or books to be kept for that purpose by the said Company.

Amount of
Capital Stock.

Division into
shares.
Transfer of
shares.

XXVI. And be it enacted, That no Stockholder in the said Company shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Company beyond the extent of his, her or their share of the capital of the said Company not paid up.

Stockholders
not to be liable
beyond extent
of their shares
respectively.

XXVII. And be it enacted, That so soon as Directors have been appointed as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company by giving sixty days' notice thereof in any newspaper published in the said Districts for an instalment of five per cent. upon each share which they or any of them may respectively subscribe for, and that the residue of the amount of the shares of the Stockholders shall be payable by instalments, at such times and in such proportions as the Directors of the said Company may see fit, so as no such instalment shall exceed five per cent., nor become payable in less than thirty days after public notice in the newspaper aforesaid: Provided always, that the said Directors shall not commence the construction of the said Rail-road or way until the said first instalment shall be paid in.

Calls for ins-
talments upon
shares how to
be made.

Proviso:
When the
work may be
commenced.

XXVIII. And be it enacted, That if any Stockholder or Stockholders as aforesaid, shall refuse or neglect to pay at the time required, any such instalment or instalments as shall be lawfully required by the Directors as due and payable upon any share or shares, such Stockholder or Stockholders so refusing or neglecting shall forfeit such share or shares as aforesaid, with any amount that shall have been previously paid thereon; and that the share or shares so forfeited may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid thereon, shall be accounted for and applied in like manner as other monies of the said Company: Provided always, that the purchaser or purchasers shall pay the said Company the amount of the said instalment required, over and above the purchase money of the share or shares so purchased by him, her or them as aforesaid, immediately after the sale, and before they shall be entitled to the Certificate of the transfer of such shares so purchased as aforesaid: Provided always, that thirty days' notice of the sale of such forfeited shares shall be given in any newspaper published in each of the said Districts, and that the instalments due may be received in redemption of such forfeited shares, at any time before the day appointed for the sale thereof.

Forfeitures of
shares upon
non-payment.

Proviso

Proviso.

XXIX. And be it enacted, That it shall be the duty of the Directors to make annual or semi-annual dividends of so much of the profits of the said Company, as to them or a majority of them shall seem advisable; and that once in each year an exact and particular Statement shall be rendered of the state of their affairs, debts, credits, profits and losses;

Directors to
declare annual
or semi-annual
Dividends.

And to render accounts and submit the same to the Stockholders and to the Legislature

losses ; such Statement to appear in the books and to be open to the perusal of any Stockholder at his or her reasonable request ; which said Statement, attested on oath, shall be submitted annually to the three branches of the Legislature within thirty days after the opening of each Session of the Provincial Parliament, as also a Statement of the tonnage of goods, and number of passengers that have been conveyed along the said road.

Company may borrow a further sum of money when £15,000 of Capital Stock is paid up.

XXX. And be it enacted, That whenever the sum of fifteen thousand pounds of the Capital Stock of the said Company shall have been paid up and expended in the construction of some part or parts of the said Rail-road, it shall and may be lawful for the President and Directors of the said Company being thereto authorized by a General Meeting of the Stockholders to be called for that purpose, to borrow by way of loan from such party or parties as shall be willing to advance the same, and at the lowest rate of interest for which it can be got or procured, such sum or sums of money as shall not exceed the balance of the Stock not paid in, for the purpose of carrying on and completing the said Rail-road ; and the said road or such parts thereof as may be constructed, with the income of Tolls arising therefrom, after paying the necessary expenses of conducting the business thereof, as also the repairs thereof, may be pledged as security for the payment of the principal money so borrowed and the interest thereof.

And may mortgage the road and works, &c. for security of such loan.

Road to be commenced and completed within a certain time, on pain of forfeiture of charter.

XXXI. And be it enacted, That the said road which the said Company are by this Act authorized to make, shall be commenced within four years from the passing of the said Act ; otherwise the said Act, and every matter and thing therein contained shall cease and be utterly void ; and the said Rail-road shall be completed and fit for public use within twenty years from the passing of this Act, otherwise this Act shall cease to have force and effect with regard to such parts of the said Rail-road as shall not then be completed, but shall remain in force with regard to such parts of it as shall then be completed and in use.

Limitation of actions.

XXXII. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months after the fact committed, and not afterwards, and the defendant or defendants in such action or suit may plead the general issue and give this Act and the special matters in evidence on the trial.

Public Act.

XXXIII. And be it enacted, That this Act shall be deemed and taken to be a public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace and other persons without being specially pleaded.

The Legislature may alter or amend this Act.

XXXIV. And be it enacted, That notwithstanding the privileges hereby granted and confirmed, the Legislature may at any time hereafter make such addition to this Act or such alterations of any of the provisions thereof as they may think fit and proper for affording just protection to the public, or to any person or persons, bodies politic or corporate in respect to their estate, property or rights or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right, public or private, that may be affected by any of the powers given by this Act.

After a certain time Company may extend

XXXV. And be it enacted, That the Company by this Act incorporated, may at any time within ten years from the day of the passing of this Act, extend their line of
Railway

Railway from the said Town of Peterborough to any point on Chemong Lake in the Colborne District. their line of road.

XXXVI. And be it enacted, That if the said Company shall determine to extend their line of road as provided for in the foregoing section, they shall cause thirty days' public notice to be given in all the newspapers printed and published in the Town of Peterborough, of such intention, and the line of road shall be thereupon considered to be extended accordingly, and all the clauses, provisions and enactments of this Act. shall thereupon be held to be extended to such increased line as fully to all intents and purposes, as though the same had been originally included in the route of the said road First giving thirty days' notice of their intention so to extend the same.

SCHEDULE A.

FORM OF CONVEYANCE.

Know all men by these presents that I, *A. B.*, of, &c., do hereby in consideration of paid to me by the Peterborough and Port Hope Railway Company, the receipt whereof is hereby acknowledged, grant, bargain, sell, convey and confirm unto the said Peterborough and Port Hope Railway Company, their Successors and Assigns for ever, all that certain parcel or tract of land, situate (*here describe the land*) the same having been selected and laid out by the said Company for the purposes of their road, to have and to hold the said land and premises together with the hereditaments and appurtenances thereto, to the said Peterborough and Port Hope Railway Company, their Successors and Assigns for ever.

Witness my hand and seal, this day of 18

Signed, sealed and delivered in presence }
of }

L. S.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DECIMO
VICTORIÆ REGINÆ.

CAP. CX.

An Act to incorporate a Company to extend the Great Western Railroad from Hamilton to Toronto.

Reserved for the signification of Her Majesty's pleasure 9th June, 1846.
The Royal Assent given by Her Majesty in Council, on the 30th October following; and Proclamation made thereof by His Excellency EARL CATHCART, in the Canada Gazette of December 26, 1846.

WHEREAS it is desirable for the general benefit of the country, that a chain of Preamble.
Railway should be constructed, extending from the Western extremity of the Province along the North shore of Lake Ontario to Montreal; And whereas the proposed line of the Great Western Rail-road Company is the proper and most eligible route for such a work from the said Western extremity of the Province to the Town of Hamilton, in the Gore District; And whereas it is expedient for the purpose aforesaid that the said line of the Great Western Rail-road should be continued in as direct a route as the face of the country will permit to the City of Toronto in the Home District; And whereas Sir Allan Napier MacNab, of Dundurn, Canada, Matthew Uzielli, Abel Lewis Gower, Gregory Scale Walters, Henry John Enthoven, Thomas Smith, J. Laing, W. J. Chaplin, George Hudson, John Moss, of London, George Sylvester Tiffany, Peter Buchanan, John Wetenhall, Peter Carrol, John Ogilvy Hatt, Henry McKinstry, James Bell Ewart, R. W. Harris, Malcolm Cameron, of Canada, and others, have petitioned for the passing of a Law incorporating a Company for the purpose of constructing a single or double track wooden or iron Rail-road or way from the said Town of Hamilton to the said City of Toronto; And whereas it is expedient to incorporate a Joint Stock Company for the purposes hereinafter named: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority aforesaid, That Sir Allan Napier MacNab, of Dundurn, Canada, Matthew Uzielli, Abel Lewis Gower, Gregory Scale Walters, Henry John Enthoven, Thomas Smith, J. Laing, W. J. Chaplin, George Hudson, John Moss, of London, George Sylvester Tiffany, Peter Buchanan, John Wetenhall, Peter Carrol, John Ogilvy Hatt, Henry McKinstry, James Bell Ewart, R. W. Harris, Malcolm Cameron, of Canada, with all such other persons as shall become Stockholders in such Joint Stock or Capital as is hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic in fact: Certain persons incorporated as a Company.
and

Corporate
name and
powers.

and under the name and style of *The Hamilton and Toronto Rail-road Company*, and by that name they and their Successors shall and may have continued succession, and by such name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto in all courts and places whatsoever, in all manner of actions, suits, complaints, matters and concerns whatsoever; and they and their successors may and shall have a Common Seal, and may change and alter the same at their will and pleasure, and also that they and their successors by the same name of *The Hamilton and Toronto Rail-road Company*, shall be by law capable of purchasing, having and holding to them and their successors, any estate, real, personal or mixed, to and for the use of the said Company, and of letting, conveying, and otherwise departing therewith for the benefit and on account of the said Company, from time to time as they shall deem necessary and expedient: Provided always, nevertheless, that the real estate to be held by the said Company, shall be only such as shall be required to be held by them for the purpose of making, using and preserving the said Rail-road, and for the objects immediately connected therewith.

Proviso—Real
estate limited.

Company may
construct a
Rail-road from
Hamilton to
Toronto.

II. And be it enacted, That the said Company and their Agents or servants, shall have full power under this Act, to lay out, construct, make and finish a double or single iron or wooden Rail-road or way, at their own costs and charges, on and over any part of the country lying between the said Town of Hamilton and the said City of Toronto, and to take, carry and transport thereon passengers, goods and property, either in carriages used and propelled by the force of steam or by the power of animals or any other mechanical or other power, or by any combination of power which the said Company may choose to employ.

Company may
contract, &c.
with owners of
any lands, for
the said lands.

Case of dis-
agreement
provided for.

Company and
owners to ap-
point Arbitra-
tors to settle
disputes con-
cerning price
of lands—third
Arbitrator to
be appointed.

Meetings of
Arbitrators.

III. And be it enacted, That the said Company are hereby empowered to contract, compound, compromise and agree with the owners or occupiers of any lands upon, which they may determine to construct the said Rail-road, either by purchase of so much of the said land and privileges as they shall require for the purposes of the said Company, or for the damages which he, she or they shall and may be entitled to receive of and from the said Company in consequence of the said intended Rail-road being made and constructed in and upon his, her or their respective lands; and in case of any disagreement between the said Company and the owner or owners, occupier or occupiers, as aforesaid, it shall and may be lawful from time to time for each owner or occupier so disagreeing with the said Company, either upon the value of the lands and tenements or private privileges proposed to be purchased, or upon the amount of damages to be paid to them as aforesaid, to nominate and appoint one indifferent person, and for the said Company to nominate one other indifferent person, who together with one other person to be chosen by the persons so named, before proceeding to business, or, in the event of their differing as to the choice of such other person to be appointed by the Judge of the District Court for the District in which the lands are situate before the others proceed to business, shall be Arbitrators to award, determine, adjudge and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, the award of the majority of whom shall be final; and the said Arbitrators shall be, and are hereby required to attend at some convenient place in the vicinity of the said intended Rail-road, to be appointed by the said Company after eight days' notice for that purpose given by the said Company, then and there to arbitrate, award, adjudge and determine such matters and

and things as shall be submitted to their consideration by the several parties interested; and that each Arbitrator shall be sworn (before some one of Her Majesty's Justices of the Peace, in and for the District in which the subject matter of the said disagreement shall originate, any of whom may be required to attend the said meeting for that purpose,) well and truly to assess the damages between the parties according to the best of his judgment: Provided always, that any award made under this Act, shall be subject to be set aside on application to the Court of Queen's Bench, in the same manner and on the same grounds as in ordinary cases of submission by the parties, in which case a reference may be again made to arbitration as hereinbefore provided.

Arbitrators
to be sworn.

Proviso:
Award may be
set aside by
Q. B. for
cause.

IV. And be it enacted, That whatever sum of money may be finally awarded to any person or persons for compensation for property required to be occupied, or for damages occasioned by the interference of the said Company with his or their property, rights or privileges, shall be paid within three months from the time of the same being awarded, and in case the said Company shall fail to pay the same within that period, then their right to assume any such property, or commit any act in respect of which such sum of money was awarded, shall wholly cease, and it shall be lawful for the proprietor to resume his occupation of such property, and to possess fully his rights and privileges in respect thereof, free from any claim or interference from the said Company.

All sums
awarded to be
paid within
three months,
on pain of
forfeiting the
right to take
possession.

V. And be it enacted, That when an award shall be made for more money, as an indemnification or satisfaction for any lands, grounds, hereditaments or property, or for any damage done to any lands, tenements, hereditaments or property, of any person or persons whomsoever, than had previously been offered by or on behalf of the said Company, then all the expenses of holding the said arbitration shall be defrayed by the said Company; but if any award shall be given for the same or a less sum than had been previously offered by or on behalf of the said Company, or in case no damages shall be awarded (when the dispute is for damages only) then and in every such case the costs and expenses shall be settled in like manner by the Arbitrators and paid by the party or parties with whom the said Company shall have had such dispute, which said costs and expenses having been so settled, shall and may be deducted out of the money so awarded when the same shall exceed such costs and expenses as so much money advanced to and for the use of such person or persons, and the payment or tender of the remainder of such money shall be deemed and taken to all intents and purposes to be a payment or tender of the whole sum so awarded to be paid by the said Company to such person or persons as aforesaid.

When award
is made for
more than offered by
Company, expenses
of arbitration
to be defrayed
by Company;
But if otherwise,
then by
the party, and
deducted from
the compensation.

VI. And be it enacted, That whenever any lands or grounds required by the said Company for the purpose of the said Rail-road, are held and owned by any person or persons, bodies politic or corporate, or collegiate, whose residence may not be within this Province or unknown to the said Company, or when the title to any such lands or grounds may be in dispute, or where the owner or owners of such lands or grounds are unwilling or unable to treat with the said Company for the sale thereof or to appoint Arbitrators as aforesaid, or refuse or neglect so to do for the space of one calendar month after having been thereto required by the said Company, it shall and may be lawful for the said Company to nominate one indifferent person, and for the Judge of the District Court for the District in which the lands are situate, on the application of the said Company to nominate and appoint one other indifferent person, who, together with one other person, to be chosen by the persons so named before proceeding to business,

Proceedings to
be adopted
when the parties
are unknown, or out
of the Province, or refuse
to appoint Arbitrators, &c.

business, or, in the event of their differing as to the choice of such other person, to be appointed by the said Judge before the others proceed to business, shall be Arbitrators to award, determine, adjudge and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same for the said lands or grounds or damages as aforesaid, and the decision of the majority of such Arbitrators shall be final; which said amount so awarded the said Company are to pay or cause to be paid to the said several parties entitled to receive the same when demanded, and also that a record of such award or arbitration shall be made up and signed by the said Arbitrators or a majority of them, specifying the amount of such award and the costs of such arbitration, which may be settled by the said Arbitrators or a majority of them, which record shall be deposited in the Registry Office of the County in which such lands are situated; and also that the expenses of the said arbitration shall be paid by the said Company, and by them be deducted from the amount of such award on payment thereof to the parties entitled to receive the same.

Award to be registered—
Costs how paid.

Proceedings to be adopted when lands are under mortgage.

VII. And be it enacted, That whenever any lands or grounds required to be used by the said Company shall be held under mortgage, it shall and may be lawful to and for the said Company to nominate one indifferent person, and for the Judge of the District Court for the District in which such lands are situate, on the application of the said Company, to appoint one other indifferent person, who, together with one other person, to be chosen by the persons so named before proceeding to business, or, in the event of their differing as to the choice of such other person, to be appointed by the said Judge before the others proceed to business, shall be Arbitrators to decide on and assess the value of the said lands and grounds or the amount of damages to be paid to the owners thereof as aforesaid, and upon such decision or award being made the said Company shall pay or cause to be paid the amount of such award to the mortgagee as a payment for and on account of such mortgage, and upon such payment being so made the mortgagor and mortgagee are hereby required and compelled to join in conveying the said lands and grounds to the said Company and their successors: Provided always, that when the amount of such award shall exceed the amount secured and paid on such mortgage, the said Company after the amount due on such mortgage shall pay or cause to be paid the balance of the said award to the mortgagor or other party entitled to receive the same.

Proviso. When the compensation exceeds the amount of the mortgage.

When Rail-road shall pass through Indian property, compensation to be made and Arbitrator appointed by the Chief Officer of the Department.

VIII. And be it enacted, That if the said double or single iron or wooden Rail-road or way, shall pass through a tract of land or property belonging to or in possession of any tribe of Indians in this Province, or if any act occasioning damage to their property or their possessions shall be done under the authority of this Act, compensation shall be made to them therefor in the same manner as is provided with respect to the property, possessions or rights of other individuals; and that whenever it shall be necessary that Arbitrators shall be chosen by the parties for settling the amount of such compensation, the Chief Officer of the Indian Department within this Province is hereby authorized and required to name an Arbitrator on behalf of the said Indians, and the amount which shall be awarded in any case shall be paid where the said lands belong to any tribe or body of Indians, to the said Chief Officer, for the use of such tribe or body.

When Rail-road shall pass through Crown Lands,

IX. And be it enacted, That whenever it shall be necessary for the said Company to occupy any part or parts of the lands or grounds belonging to the Queen's Majesty, or which have been at any time heretofore specially set apart and reserved, or which are

are designated or commonly known as Crown Lands or lands reserved for Military purposes, they shall first apply for and obtain the license and consent of Her said Majesty, Her Heirs and Successors, under the hand and seal of the Governor or person administering the Government of this Province for the time being, and having obtained such consent and license, it shall and may be lawful for them at any time to enter into and upon, have, hold, use, occupy and enjoy any part or parts of the said lands and grounds, for the purposes of this Act or for any other purposes connected therewith.

or lands held for the defence of the Province, the same not to be taken without permission.

X. And be it enacted, That after any lands or grounds shall be set out and taken as aforesaid by the said Company, for the purpose of making and completing the said double or single wooden or iron Rail-road or way, or for other the purposes and conveniences aforesaid, it shall and may be lawful for all bodies politic, corporate or collegiate, corporations, communities, guardians, executors, administrators, and all other trustees or persons whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other person or persons who are or shall be seized, possessed of or interested in any lands or grounds which shall be so required as aforesaid, or any part thereof, to contract for, sell and convey unto the said Company, their successors or assigns, all or any part of such lands or grounds, which may from time to time be required as aforesaid; and that all contracts, agreements, sales, conveyances and assurances so to be made shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary thereof in any wise notwithstanding; and all bodies politic, corporate or collegiate, and all persons whatsoever so conveying as aforesaid are hereby indemnified for what he, she or they or any of them shall respectively do by virtue of or in pursuance of this Act.

After any lands have been set out and taken, all bodies corporate, and parties who could not otherwise alienate, may sell their property therein to the Company.

XI. And be it enacted, That all deeds or conveyances for lands, to be conveyed to the said Company for the purposes of this Act, shall and may, as far as the title to the said lands or the circumstances of the party making such conveyances will admit, be made in the form given in the Schedule marked A, and all Registrars are hereby authorized to enter in their Register books such deeds, on the production and proof of execution thereof, without any memorial, and to minute such entry on the said deed, and the said Company are to pay the said Registrar for so doing the sum of two shillings and six pence for each deed, and no more.

Deeds and conveyances to be according to Schedule A.

XII. And be it enacted, That the said Company shall have full power and authority to explore the country lying between the said Town of Hamilton and the said City of Toronto, and to designate and establish, and for the said Company to take, appropriate, have and hold to and for the use of them and their successors, the line and boundaries of a double or single Rail-road, with their necessary Railways to connect the said Town of Hamilton and the said City of Toronto; and for the purposes aforesaid the said Company and their Agents, servants, and workmen are hereby authorized and empowered to enter into and upon the lands and grounds of or belonging to Her Majesty, Her Heirs and Successors, or any other person or persons, bodies politic or corporate, and to survey and take levels of the same or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for making

Company may explore the country lying between Hamilton and Toronto.

And may set out and survey lands necessary for their works, &c.

May erect
buildings, &c.

May make
Bridges, &c.
and do other
necessary
things.

As little dam-
age to be done
as possible,
and compensa-
tion to be
made.

Company not
to interfere
with privileges
of individuals
without per-
mission, unless
after proceed-
ings under
this Act.

Rail-road
Tolls, &c.
vested in the
Company.

Company may
levy Tolls on
all goods, &c.
passing on the
Rail-road.

making the said double or single Rail-road, and all such matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing and using the said intended Rail-road; and also to make, build, erect, and set up in and upon the route of the said Rail-road, or upon the lands adjoining or near the same, all such works, ways, roads and conveniences as the said Company shall think requisite and necessary for the purposes of the said Rail-road; and also from time to time to alter, repair, amend, widen or enlarge the same, or any other of the conveniences above mentioned as well for carrying or conveying of all manner of materials necessary for making, erecting, furnishing, altering, repairing, widening or enlarging the works of or belonging to the said Rail-road; and also place, lay, work and manufacture the said materials on the ground near to the place or places where the said works or any of them are or shall be intended to be made, erected, repaired, or done, and to build and construct the several works and erections belonging thereto, and also to make, maintain, repair and alter any fences or passages under or through the said Rail-road, or which shall communicate therewith, and to construct, erect and keep in repair any piers, arches or other works in and upon and across any rivers or brooks, for making, using, maintaining and repairing the said Rail-road and side-paths; and also to construct, make and do all other matters and things which they shall think necessary and convenient for the making, effecting, preserving, improving, completing and using the said Rail-road in pursuance of, and within the true meaning of this Act, they the said Company doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner herein mentioned for all damages to be sustained by the owners or occupiers of such lands, tenements and hereditaments.

XIII. And be it enacted, That the said Company or their Agents or servants, at any time after the passing of this Act, under and by virtue of its provisions, shall not, in constructing, building and furnishing a double or single iron or wooden Rail-road or way as aforesaid, on any part or portion of the country lying between the said Town of Hamilton, and the said City of Toronto, in any degree interfere with or encroach on any fee simple, right or private easement or privilege of any individual now holding and enjoying the same, or entitled thereto, without permission first had and obtained either by consent of the owner thereof or by virtue of the reference authorized by this Act.

XIV. And be it enacted, That the said double or single Rail-road or way, and all materials which shall be from time to time got or provided for constructing, building, maintaining or repairing the same, and all Tolls on goods, wares and merchandize, or passengers as hereinafter mentioned, shall be and the same are hereby vested in the said Company, and their successors for ever.

XV. And be it enacted, That so soon as the said double or single Rail-road or way shall be so far completed as to be capable of being used, it shall and may be lawful for the said Company, through their President and Directors, from time to time to fix and regulate the Tolls and charges to be received for the transportation of all goods, merchandize and passengers thereon, or any other conveniences, erections or improvements, built, occupied, or owned by the said Company to be used therewith, and it shall and may be lawful for them to ask for, demand, receive, recover and take the said Tolls, dues or charges to and for their own proper use and benefit; and also, that they

they shall have full power to regulate the time and manner in which goods and passengers shall be transported, taken and carried on the said double or single Rail-road or way, as well as the manner of collecting all Tolls and dues on account of transportation and carriage, and shall have power to erect and maintain such Toll-houses and other buildings for the accommodation and proper transaction of their business, as to them may seem necessary.

And to make regulations, build Toll-houses, &c.

XVI. And be it enacted, That whenever it shall be necessary for the said single or double Rail-road or way to intersect or cross any stream of water or water course, or any road or highway, lying on the route thereof between the Town of Hamilton aforesaid and the said City of Toronto, it shall be lawful for the said Company to construct their single or double Rail-road or way across or upon the same; Provided that the Company shall restore the stream or water course or road or highway thus intersected to its former state, or in a sufficient manner not to impair its usefulness, and shall moreover erect and maintain during the continuance of this Company, sufficient fences upon the line or route of their said single or double Rail-road or way.

Company may construct their Rail-road across any stream of water, &c.
Proviso.

XVII. And be it enacted, That where the said single or double Rail-road or way shall cross any public highway, the ledge or flange of such Railway for the purpose of guiding the wheels of the carriages, shall not rise above the level of such road nor sink below the level of such road more than one inch; and that where any bridge shall be erected or made by the said Company for the purpose of carrying the said double or single Rail-road or way over or across any public highway, the space of the arch of any such bridge shall be formed and shall at all times be and be continued of such breadth as to leave a clear and open space under every such arch of not less than twelve feet, and of a height from the surface of such public highway to the centre of such arch of not less than fourteen feet, and the descent under any such bridge shall not exceed one foot in thirty feet; and that in all places where it may be necessary to erect, build, or make any bridge or bridges for carrying any public carriage road or highway over the said double or single Rail-road or way, the ascent of every such bridge for the purpose of every such road shall not be more than one foot in twenty feet; and a good and sufficient fence shall be made on each side of every such bridge, which fence shall not be less than four feet above the level of such bridge.

When Rail-road crosses any highway, the flange of such Railway not to rise nor sink more than one inch.
Height and rise of bridges, &c.

Fences on each side of bridges.

XVIII. And be it enacted, That in all cases where the said intended double or single Rail-road or way shall cross any public highway on a level, the said Company shall erect, and at all times maintain a good and sufficient gate on each side of the said public highway where the said double or single Rail-road or way shall communicate with such public highway, which gates shall be constantly kept shut, except at such times as wagons, carts, and other carriages passing along the said double or single Rail-road or way shall have to cross such public highway, and they shall be opened for the purpose of letting such wagons, carts, or other carriages pass through; and every driver or person entrusted with the care of any wagon, cart or other carriage shall and he is hereby directed to cause the said gates and each of them to be shut as soon as such wagons carts or other carriages shall have passed through, under the penalty of ten shillings currency, to be recovered before any one Justice of the Peace.

Company to establish gates where the Railway shall cross a public highway.

Penalty for not closing such gates.

XIX. And be it enacted, That if any person or persons shall do or cause to be done any act or acts whatever, whereby any building, construction or work of the said Company,

Penalty on persons injuring or obstructing

ing the free
use of the
Rail-road.

Company, or any engine, machine or structure or any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall forfeit and pay to the said Company, double the amount of damages sustained by means of such offence or injury, to be recovered in the name of the said Company, by action of debt to be brought in any Court of Record in that part of the Province formerly Upper Canada.

Number of
Directors of
Company, and
by whom elect-
ed.
Election.

XX. And be it enacted, That the property, affairs and concerns of the said Company shall be managed by seven Directors, one of whom shall be chosen President, who shall hold their offices for one year, which said Directors shall be Stockholders to the amount of at least twenty shares, and be elected on the first Monday in June in each and every year at the Town of Hamilton, at such times of the day as a majority of the Directors for the time being shall appoint; and public notice thereof shall be given in any newspapers that may be published in the Gore and Home Districts, at least one month previous to the time of holding the said election; and the said election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose in their proper persons or by proxy; and all elections for such Directors shall be by ballot, and the seven persons who shall have the greater number of votes at any election shall be Directors; and if it shall happen at any such election that two or more have an equal number of votes, in such manner that a greater number of persons shall by a plurality of votes appear to be chosen Directors, then the Stockholders hereinbefore authorized to hold such election, shall proceed to elect by ballot until it is determined which of the said persons so having an equal number of votes shall be Director or Directors, so as to complete the whole number of seven, and the said Directors so chosen, as soon as may be after the said election, shall proceed in like manner to elect by ballot one of their number to be President, and if any vacancy or vacancies shall at any time happen among the Directors, by death, resignation, or removal from the Province, such vacancy or vacancies shall be filled, for the remainder of the year in which they may happen, by a person or persons to be nominated by a majority of the Directors.

Mode of elect-
ing.

Ties.

Election of
President.

Company not
to be dissolved
if election
should not
happen on a
day when it
ought to have
been, pursuant
to this Act.

Votes of Pro-
prietors accord-
ing to the
numbers of
shares they
hold.

XXI. And be it enacted, That in case it shall happen that an election of Directors should not be made on any day when, pursuant to this Act it ought to have been made, the said Company shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any day to hold and make an election of Directors, in such manner as shall have been regulated by the Bye-laws and Ordinances of the said Corporation.

XXII. And be it enacted, That each Stockholder shall be entitled to the number of votes, proportioned to the number of shares, which he or she shall have held in his or her own name at least one month prior to the time of voting, according to the following rates, that is to say, one vote for each share.

Directors may
make By-laws.

XXIII. And be it enacted, That the Directors for the time being, or the majority, shall have power to make and subscribe such rules and regulations as to them shall appear needful and proper, touching the management and disposition of the stock, property, estate and effects of the said Company, and touching the duty of Officers, clerks and servants, and all such other matters and things as appertain to the business of the said Company; and shall also have power to appoint as many Officers, clerks and servants for carrying on the said business, with such salaries and allowances, as to them shall seem fit.

And appoint
Officers and
servants.

XXIV. And be it enacted, That on the first Monday of September next, a meeting of the Stockholders shall be held at the Town of Hamilton, who in the manner hereinbefore provided, shall proceed to elect seven persons to be Directors, who shall elect by ballot one of their number to be their President, and shall continue in office until the next annual meeting of the said Company, and who, during such continuance in office, shall discharge the duties of Directors in the same manner as if they had been elected at the annual election : Provided always, that if shares to the amount of twenty-five thousand pounds shall not be taken, then the said meeting shall not be held until that amount of stock shall have been taken up, and at least thirty days' notice thereof given in any paper or papers published in the said Gore and Home Districts.

First meeting of Stockholders to elect Directors.

When to be held.

Proviso :
A certain amount to be first subscribed.

XXV. And be it enacted, That the whole Capital Stock of the said Company, inclusive of any real estate which the said Company may have or hold by virtue of this Act, shall not exceed in value two hundred and twenty-five thousand pounds, which amount shall be raised by the several parties hereinbefore named and by such other person or persons who may, after the passing of this Act, become subscriber or subscribers towards such stock, and be held in nine thousand shares of twenty-five pounds each, and that the shares of the Capital Stock be deemed personal property, and may, after the first instalment thereon shall have been paid, be transferred by the respective persons subscribing and holding the same to any other person or persons, and such transfer shall be entered and registered in a book to be kept for that purpose by the said Company.

Amount of Capital stock of Company not to exceed £225,000.

Stock to be deemed personal property, and how transferred.

XXVI. And be it enacted, That no Stockholder in the said Company shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Company, beyond the extent of his, her or their share in the capital of the said Company not paid up.

No Stockholder to be liable for debts due by Company.

XXVII. And be it enacted, That so soon as Directors have been appointed as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company by giving thirty days' notice thereof in any newspapers published in the said Gore and Home Districts for an instalment of five per cent. upon each share which they or any of them may respectively subscribe for, and that the residue of the amount of the shares of the Stockholders shall be payable by instalments at such times and in such proportions as the Directors of the said Company may see fit, so as no such instalments shall exceed five per cent. nor become payable in less than thirty days after public notice in the newspaper or newspapers aforesaid ; Provided always, that the said Directors shall not commence the construction of the said Rail-road until the said first instalment shall be paid in.

Directors may call upon Stockholders for instalments.

Proviso.

XXVIII. And be it enacted, That if any Stockholder or Stockholders as aforesaid shall refuse or neglect to pay at the time required any such instalment or instalments as shall be lawfully required by the Directors, as due and payable upon any share or shares, such Stockholder or Stockholders so refusing or neglecting shall forfeit such share or shares as aforesaid with any amount which shall have been previously paid thereon, and that the share or shares so forfeited may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid thereon shall be accounted for and applied in like manner as other monies of the said Company : Provided always, that the purchaser or purchasers shall pay the said Company the amount of the instalment required,

Penalty on Stockholders refusing to pay instalments.

Proviso.

Proviso.

required, over and above the purchase money of the share or shares so purchased by him, her or them as aforesaid, immediately after the sale, and before they shall be entitled to the certificate of the transfer of such shares so purchased as aforesaid: Provided always, that thirty days' notice of the sale of such forfeited shares shall be given in any newspaper or newspapers published in the said Gore and Home Districts, and that the instalments due may be received in redemption of any such forfeited shares at any time before the day appointed for the sale thereof.

Directors to make annual or semi-annual dividends of profits: and to keep accounts and submit statements to the Stockholders and to the Legislature.

XXIX. And be it enacted, That it shall be the duty of the Directors to make annual or semi-annual dividends of so much of the profits of the said Company as to them or a majority of them shall seem advisable, and that once in each year an exact and particular Statement shall be rendered of the state of their affairs, debts, credits, profits and losses, such Statements to appear on the books and to be open to the perusal of any Stockholder at his or her reasonable request; which said Statement, attested on oath, shall be annually submitted to the three branches of the Legislature within fifteen days after the opening of each Session of the Provincial Parliament, and also a statement of the tonnage of goods and number of passengers that have been conveyed along the said road.

Directors may call general meeting of Stockholders to raise further sum by loan, when £75,000 shall have been expended.

XXX. And be it enacted, That whenever the sum of seventy-five thousand pounds of the Capital Stock of the said Company shall have been paid up and expended in the construction of some part or parts of the said Rail-road, it shall and may be lawful for the President and Directors of the said Company, being thereunto authorized by a general meeting of the Stockholders to be called for that purpose, to borrow by way of loan from such party or parties as shall be willing to advance the same, and at the lowest rate of interest for which it can be procured, such sum or sums of money, not to exceed in the whole the balance of the stock not paid up, for the purpose of carrying on and completing the said Rail-road, and the said Rail-road or such part thereof as may be constructed with the income or tolls arising therefrom, after paying the necessary repairs and the expenses of conducting the business thereof, may be pledged as security for the payment of the principal money so borrowed and the interest thereof.

And may mortgage the Road and works, &c. as security.

Road to be commenced within three years after passing of this Act, and completed within ten years, on pain of forfeiture of privileges.

XXXI. And be it enacted, That the said Rail-road which the said Company are by this Act authorized to make, shall be commenced within three years from the passing of this Act, otherwise this Act and every matter and thing therein contained shall cease and be utterly null and void, and the said Rail-road shall be completed and fit for public use within ten years from the passing of this Act, otherwise this Act shall cease to have force and effect with regard to such parts of the said Rail-road as shall not then be completed, but shall remain in force with regard to such parts of it as shall then be complete and in use.

Limitation of actions.

XXXII. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next afterwards; and the defendant or defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

Public Act.

XXXIII. And be it enacted, That this Act shall be deemed and taken to be a public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace, and other persons without being specially pleaded.

XXXIV.

XXXIV. And be it enacted, That notwithstanding the privileges hereby conferred, the Legislature may at any time hereafter make such addition to this Act, or such alterations of any of its provisions as they may think proper for affording just protection to the public, or to any person or persons, body politic or corporate, in respect to their estate, property or rights, or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right, public or private, that may be effected by any of the powers given by this Act.

Legislature
may at any
time alter pro-
visions of this
Act.

SCHEDULE A.

FORM OF CONVEYANCE.

Know all men by these Presents, that I, *A. B.* of, &c. do hereby
in consideration (being the purchase money)
paid to me by the Hamilton and Toronto Rail-road Company, the receipt whereof is
hereby acknowledged, do grant, bargain and sell, convey and confirm unto the said
Hamilton and Toronto Rail-road Company, their Successors and Assigns for ever, all
that certain tract or parcel of land situate, &c. (*here describe the land*) the same having
been selected by the said Company for the purpose of their road.

To have and to hold the said land and premises together with the hereditaments and
appurtenances thereto to the said Hamilton and Toronto Rail-road Company, their
Successors and Assigns for ever.

Witness my hand and Seal, this day of

Signed Sealed and Delivered }
in the presence of }

L. S.

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Law Printer to the Queen's Most Excellent Majesty.

business, or, in the event of their differing as to the choice of such other person, to be appointed by the said Judge before the others proceed to business, shall be Arbitrators to award, determine, adjudge and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same for the said lands or grounds or damages as aforesaid, and the decision of the majority of such Arbitrators shall be final; which said amount so awarded the said Company are to pay or cause to be paid to the said several parties entitled to receive the same when demanded, and also that a record of such award or arbitration shall be made up and signed by the said Arbitrators or a majority of them, specifying the amount of such award and the costs of such arbitration, which may be settled by the said Arbitrators or a majority of them, which record shall be deposited in the Registry Office of the County in which such lands are situated; and also that the expenses of the said arbitration shall be paid by the said Company, and by them be deducted from the amount of such award on payment thereof to the parties entitled to receive the same.

Award to be
registered—
Costs how
paid.

Proceedings to
be adopted
when lands
are under
mortgage.

VII. And be it enacted, That whenever any lands or grounds required to be used by the said Company shall be held under mortgage, it shall and may be lawful to and for the said Company to nominate one indifferent person, and for the Judge of the District Court for the District in which such lands are situate, on the application of the said Company, to appoint one other indifferent person, who, together with one other person, to be chosen by the persons so named before proceeding to business, or, in the event of their differing as to the choice of such other person, to be appointed by the said Judge before the others proceed to business, shall be Arbitrators to decide on and assess the value of the said lands and grounds or the amount of damages to be paid to the owners thereof as aforesaid, and upon such decision or award being made the said Company shall pay or cause to be paid the amount of such award to the mortgagee as a payment for and on account of such mortgage, and upon such payment being so made the mortgagor and mortgagee are hereby required and compelled to join in conveying the said lands and grounds to the said Company and their successors: Provided always, that when the amount of such award shall exceed the amount secured and paid on such mortgage, the said Company after the amount due on such mortgage shall pay or cause to be paid the balance of the said award to the mortgagor or other party entitled to receive the same.

Proviso.
When the
compensation
exceeds the
amount of the
mortgage.

When Rail-
road shall pass
through In-
dian property,
compensation
to be made and
Arbitrator ap-
pointed by the
Chief Officer
of the Depart-
ment.

VIII. And be it enacted, That if the said double or single iron or wooden Rail-road or way, shall pass through a tract of land or property belonging to or in possession of any tribe of Indians in this Province, or if any act occasioning damage to their property or their possessions shall be done under the authority of this Act, compensation shall be made to them therefor in the same manner as is provided with respect to the property, possessions or rights of other individuals; and that whenever it shall be necessary that Arbitrators shall be chosen by the parties for settling the amount of such compensation, the Chief Officer of the Indian Department within this Province is hereby authorized and required to name an Arbitrator on behalf of the said Indians, and the amount which shall be awarded in any case shall be paid where the said lands belong to any tribe or body of Indians, to the said Chief Officer, for the use of such tribe or body.

When Rail-
road shall pass
through
Crown Lands,

IX. And be it enacted, That whenever it shall be necessary for the said Company to occupy any part or parts of the lands or grounds belonging to the Queen's Majesty, or which have been at any time heretofore specially set apart and reserved, or which are



ANNO DECIMO
VICTORIÆ REGINÆ.

CAP. CXI.

passed in the eighth year of Her Majesty's Reign,
to amend an Act passed in the sixth year of the
Majesty King William the Fourth, intituled, 'An
Act for the City of Toronto and Lake Huron Rail-road

By Majesty's pleasure, 9th June, 1846.

Enacted by the Legislative Council, on the 30th October, following; and Proclamation
made by the Governor-General, in the Canada Gazette of December 26, 1846.

and Lake Huron Rail-road Company have, by
an Act of the Parliament of this Province, passed
in the eighth year of the said Majesty, amending the Act of the Parliament of
the said Majesty King William the Fourth, intituled, 'An
Act for the City of Toronto and Lake Huron Rail-road
Company, may be so altered and amended as to em-
power the said Company to have two or more *termini* on the waters bounding the
said Company to the westward, and to enable the said Company either by itself or by a
union or junction with any other Company or Companies formed in England, under a
deed or deeds of settlement, registered there according to law, or chartered in this Pro-
vince for the same or similar purposes, to extend the benefit of such valuable improve-
ment, to such other parts of this Province, as the wants of the country may require,
either to the north or south of the road projected westward from Toronto, and for that
purpose to increase the Capital Stock of the said Company, and to extend the time for the
completion of any new or additional lines: And whereas from the known results of
such improvements in all countries, it is desirable that the prayer of the said Petition
should be granted: Be it therefore enacted by the Queen's Most Excellent Majesty, by
and with the advice and consent of the Legislative Council and of the Legislative
Assembly of the Province of Canada, constituted and assembled by virtue of and under
the authority of an Act passed in the Parliament of the United Kingdom of Great
Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and
Lower Canada, and for the Government of Canada*, and it is hereby enacted by the
authority of the same, That for and notwithstanding any thing in the said Act contained
or in any other Act of the late Province of Upper Canada, or of the Province of
Canada, contained, it shall and may be lawful for the said *City of Toronto and Lake
Huron Rail-road Company*, to construct one or more branches from the main line of
road extending westward from Toronto to the waters of Lake Huron, so that the said
Road may have two or more *termini* on the navigable waters bounding the western
extremity

Preamble.

Recital.

8 Vict. c. 83
cited.

U. C. 6 Will.
4. c. 5.

The said Com-
pany may con-
struct branches
from the main
line west of
Toronto, so as
to have two or
more *termini*
on Lake Hu-
ron.

1846

VICTORIA, CAP. 110.

business, or, in the event of their differing as to the choice of such other person, to be appointed by the said Judge before the others proceed to business, shall be Arbitrators to award, determine, adjudge and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same for the said lands or grounds or damages as aforesaid, and the decision of the majority of such Arbitrators shall be final; which said amount so awarded the said Company are to pay or cause to be paid to the said several parties entitled to receive the same when demanded, and also that a record of such award or arbitration shall be made up and signed by the said Arbitrators or a majority of them, specifying the amount of such award and the costs of such arbitration, which may be settled by the said Arbitrators or a majority of them, which record shall be deposited in the Registry Office of the County in which such lands are situated; and also that the expenses of the said arbitration shall be paid by the said Company, and by them be deducted from the amount of such award on payment thereof to the parties entitled to receive the same.

Award to be registered—
Costs how paid.

Proceedings to be adopted when lands are under mortgage.

Proviso.
When the compensation exceeds the amount of the mortgage.

When Rail-road shall pass through Indian property, compensation to be made and Arbitrator appointed by the Chief Officer of the Department.

When Rail-road shall pass through Crown Lands,

VII. And be it enacted, That whenever any lands or grounds required to be used by the said Company shall be held under mortgage, it shall and may be lawful to and for the said Company to nominate one indifferent person, and for the Judge of the District Court for the District in which such lands are situate, on the application of the said Company, to appoint one other indifferent person, who, together with one other person, to be chosen by the persons so named before proceeding to business, or, in the event of their differing as to the choice of such other person, to be appointed by the said Judge before the others proceed to business, shall be Arbitrators to decide on and assess the value of the said lands and grounds or the amount of damages to be paid to the owners thereof as aforesaid, and upon such decision or award being made the said Company shall pay or cause to be paid the amount of such award to the mortgagee as a payment for and on account of such mortgage, and upon such payment being so made the mortgagor and mortgagee are hereby required and compelled to join in conveying the said lands and grounds to the said Company and their successors: Provided always, that when the amount of such award shall exceed the amount secured and paid on such mortgage, the said Company after the amount due on such mortgage shall pay or cause to be paid the balance of the said award to the mortgagor or other party entitled to receive the same.

VIII. And be it enacted, That if the said double or single iron or wooden Rail-road or way, shall pass through a tract of land or property belonging to or in possession of any tribe of Indians in this Province, or if any act occasioning damage to their property or their possessions shall be done under the authority of this Act, compensation shall be made to them therefor in the same manner as is provided with respect to the property, possessions or rights of other individuals; and that whenever it shall be necessary that Arbitrators shall be chosen by the parties for settling the amount of such compensation, the Chief Officer of the Indian Department within this Province is hereby authorized and required to name an Arbitrator on behalf of the said Indians, and the amount which shall be awarded in any case shall be paid where the said lands belong to any tribe or body of Indians, to the said Chief Officer, for the use of such tribe or body.

IX. And be it enacted, That whenever it shall be necessary for the said Company to occupy any part or parts of the lands or grounds belonging to the Queen's Majesty, or which have been at any time heretofore specially set apart and reserved, or which are

are designated or commonly known as Crown Lands or lands reserved for Military purposes, they shall first apply for and obtain the license and consent of Her said Majesty, Her Heirs and Successors, under the hand and seal of the Governor or person administering the Government of this Province for the time being, and having obtained such consent and license, it shall and may be lawful for them at any time to enter into and upon, have, hold, use, occupy and enjoy any part or parts of the said lands and grounds, for the purposes of this Act or for any other purposes connected therewith.

or lands held for the defence of the Province, the same not to be taken without permission.

X. And be it enacted, That after any lands or grounds shall be set out and taken as aforesaid by the said Company, for the purpose of making and completing the said double or single wooden or iron Rail-road or way, or for other the purposes and conveniences aforesaid, it shall and may be lawful for all bodies politic, corporate or collegiate, corporations, communities, guardians, executors, administrators, and all other trustees or persons whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other person or persons who are or shall be seized, possessed of or interested in any lands or grounds which shall be so required as aforesaid, or any part thereof, to contract for, sell and convey unto the said Company, their successors or assigns, all or any part of such lands or grounds, which may from time to time be required as aforesaid; and that all contracts, agreements, sales, conveyances and assurances so to be made shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary thereof in any wise notwithstanding; and all bodies politic, corporate or collegiate, and all persons whatsoever so conveying as aforesaid are hereby indemnified for what he, she or they or any of them shall respectively do by virtue of or in pursuance of this Act.

After any lands have been set out and taken, all bodies corporate, and parties who could not otherwise alienate, may sell their property therein to the Company.

XI. And be it enacted, That all deeds or conveyances for lands, to be conveyed to the said Company for the purposes of this Act, shall and may, as far as the title to the said lands or the circumstances of the party making such conveyances will admit, be made in the form given in the Schedule marked A, and all Registrars are hereby authorized to enter in their Register books such deeds, on the production and proof of execution thereof, without any memorial, and to minute such entry on the said deed, and the said Company are to pay the said Registrar for so doing the sum of two shillings and six pence for each deed, and no more.

Deeds and conveyances to be according to Schedule A.

XII. And be it enacted, That the said Company shall have full power and authority to explore the country lying between the said Town of Hamilton and the said City of Toronto, and to designate and establish, and for the said Company to take, appropriate, have and hold to and for the use of them and their successors, the line and boundaries of a double or single Rail-road, with their necessary Railways to connect the said Town of Hamilton and the said City of Toronto; and for the purposes aforesaid the said Company and their Agents, servants, and workmen are hereby authorized and empowered to enter into and upon the lands and grounds of or belonging to Her Majesty, Her Heirs and Successors, or any other person or persons, bodies politic or corporate, and to survey and take levels of the same or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for making

Company may explore the country lying between Hamilton and Toronto.

And may set out and survey lands necessary for their works, &c.

May erect
buildings, &c.

May make
Bridges, &c.
and do other
necessary
things.

As little dam-
age to be done
as possible,
and compensa-
tion to be
made.

Company not
to interfere
with privileges
of individuals
without per-
mission, unless
after proceed-
ings under
this Act.

Rail-road
Tolls, &c.
vested in the
Company.

Company may
levy Tolls on
all goods, &c.
passing on the
Rail-road.

making the said double or single Rail-road, and all such matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing and using the said intended Rail-road; and also to make, build, erect, and set up in and upon the route of the said Rail-road, or upon the lands adjoining or near the same, all such works, ways, roads and conveniences as the said Company shall think requisite and necessary for the purposes of the said Rail-road; and also from time to time to alter, repair, amend, widen or enlarge the same, or any other of the conveniences above mentioned as well for carrying or conveying of all manner of materials necessary for making, erecting, furnishing, altering, repairing, widening or enlarging the works of or belonging to the said Rail-road; and also place, lay, work and manufacture the said materials on the ground near to the place or places where the said works or any of them are or shall be intended to be made, erected, repaired, or done, and to build and construct the several works and erections belonging thereto, and also to make, maintain, repair and alter any fences or passages under or through the said Rail-road, or which shall communicate therewith, and to construct, erect and keep in repair any piers, arches or other works in and upon and across any rivers or brooks, for making, using, maintaining and repairing the said Rail-road and side-paths; and also to construct, make and do all other matters and things which they shall think necessary and convenient for the making, effecting, preserving, improving, completing and using the said Rail-road in pursuance of, and within the true meaning of this Act, they the said Company doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner herein mentioned for all damages to be sustained by the owners or occupiers of such lands, tenements and hereditaments.

XIII. And be it enacted, That the said Company or their Agents or servants, at any time after the passing of this Act, under and by virtue of its provisions, shall not, in constructing, building and furnishing a double or single iron or wooden Rail-road or way as aforesaid, on any part or portion of the country lying between the said Town of Hamilton, and the said City of Toronto, in any degree interfere with or encroach on any fee simple, right or private easement or privilege of any individual now holding and enjoying the same, or entitled thereto, without permission first had and obtained either by consent of the owner thereof or by virtue of the reference authorized by this Act.

XIV. And be it enacted, That the said double or single Rail-road or way, and all materials which shall be from time to time got or provided for constructing, building, maintaining or repairing the same, and all Tolls on goods, wares and merchandize, or passengers as hereinafter mentioned, shall be and the same are hereby vested in the said Company, and their successors for ever.

XV. And be it enacted, That so soon as the said double or single Rail-road or way shall be so far completed as to be capable of being used, it shall and may be lawful for the said Company, through their President and Directors, from time to time to fix and regulate the Tolls and charges to be received for the transportation of all goods, merchandize and passengers thereon, or any other conveniences, erections or improvements, built, occupied, or owned by the said Company to be used therewith, and it shall and may be lawful for them to ask for, demand, receive, recover and take the said Tolls, dues or charges to and for their own proper use and benefit; and also, that they

they shall have full power to regulate the time and manner in which goods and passengers shall be transported, taken and carried on the said double or single Rail-road or way, as well as the manner of collecting all Tolls and dues on account of transportation and carriage, and shall have power to erect and maintain such Toll-houses and other buildings for the accommodation and proper transaction of their business, as to them may seem necessary.

And to make regulations, build Toll-houses, &c.

XVI. And be it enacted, That whenever it shall be necessary for the said single or double Rail-road or way to intersect or cross any stream of water or water course, or any road or highway, lying on the route thereof between the Town of Hamilton aforesaid and the said City of Toronto, it shall be lawful for the said Company to construct their single or double Rail-road or way across or upon the same; Provided that the Company shall restore the stream or water course or road or highway thus intersected to its former state, or in a sufficient manner not to impair its usefulness, and shall moreover erect and maintain during the continuance of this Company, sufficient fences upon the line or route of their said single or double Rail-road or way.

Company may construct their Rail-road across any stream of water, &c.
Proviso.

XVII. And be it enacted, That where the said single or double Rail-road or way shall cross any public highway, the ledge or flange of such Railway for the purpose of guiding the wheels of the carriages, shall not rise above the level of such road nor sink below the level of such road more than one inch; and that where any bridge shall be erected or made by the said Company for the purpose of carrying the said double or single Rail-road or way over or across any public highway, the space of the arch of any such bridge shall be formed and shall at all times be and be continued of such breadth as to leave a clear and open space under every such arch of not less than twelve feet, and of a height from the surface of such public highway to the centre of such arch of not less than fourteen feet, and the descent under any such bridge shall not exceed one foot in thirty feet; and that in all places where it may be necessary to erect, build, or make any bridge or bridges for carrying any public carriage road or highway over the said double or single Rail-road or way, the ascent of every such bridge for the purpose of every such road shall not be more than one foot in twenty feet; and a good and sufficient fence shall be made on each side of every such bridge, which fence shall not be less than four feet above the level of such bridge.

When Rail-road crosses any highway, the flange of such Railway not to rise nor sink more than one inch.
Height and rise of bridges, &c.

Fences on each side of bridges.

XVIII. And be it enacted, That in all cases where the said intended double or single Rail-road or way shall cross any public highway on a level, the said Company shall erect, and at all times maintain a good and sufficient gate on each side of the said public highway where the said double or single Rail-road or way shall communicate with such public highway, which gates shall be constantly kept shut, except at such times as wagons, carts, and other carriages passing along the said double or single Rail-road or way shall have to cross such public highway, and they shall be opened for the purpose of letting such wagons, carts, or other carriages pass through; and every driver or person entrusted with the care of any wagon, cart or other carriage shall and he is hereby directed to cause the said gates and each of them to be shut as soon as such wagons carts or other carriages shall have passed through, under the penalty of ten shillings currency, to be recovered before any one Justice of the Peace.

Company to establish gates where the Railway shall cross a public highway.

Penalty for not closing such gates.

XIX. And be it enacted, That if any person or persons shall do or cause to be done any act or acts whatever, whereby any building, construction or work of the said Company,

Penalty on persons injuring or obstruct

ing the free
use of the
Rail-road.

Company, or any engine, machine or structure or any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall forfeit and pay to the said Company, double the amount of damages sustained by means of such offence or injury, to be recovered in the name of the said Company, by action of debt to be brought in any Court of Record in that part of the Province formerly Upper Canada.

Number of
Directors of
Company, and
by whom elect-
ed.
Election.

Mode of elect-
ing.

Time.

Election of
President.

XX. And be it enacted, That the property, affairs and concerns of the said Company shall be managed by seven Directors, one of whom shall be chosen President, who shall hold their offices for one year, which said Directors shall be Stockholders to the amount of at least twenty shares, and be elected on the first Monday in June in each and every year at the Town of Hamilton, at such times of the day as a majority of the Directors for the time being shall appoint; and public notice thereof shall be given in any newspapers that may be published in the Gore and Home Districts, at least one month previous to the time of holding the said election; and the said election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose in their proper persons or by proxy; and all elections for such Directors shall be by ballot, and the seven persons who shall have the greater number of votes at any election shall be Directors; and if it shall happen at any such election that two or more have an equal number of votes, in such manner that a greater number of persons shall by a plurality of votes appear to be chosen Directors, then the Stockholders hereinbefore authorized to hold such election, shall proceed to elect by ballot until it is determined which of the said persons so having an equal number of votes shall be Director or Directors, so as to complete the whole number of seven, and the said Directors so chosen, as soon as may be after the said election, shall proceed in like manner to elect by ballot one of their number to be President, and if any vacancy or vacancies shall at any time happen among the Directors, by death, resignation, or removal from the Province, such vacancy or vacancies shall be filled, for the remainder of the year in which they may happen, by a person or persons to be nominated by a majority of the Directors.

Company not
to be dissolved
if election
should not
happen on a
day when it
ought to have
been, pursuant
to this Act.

Votes of Pro-
priators accord-
ing to the
numbers of
shares they
hold.

XXI. And be it enacted, That in case it shall happen that an election of Directors should not be made on any day when, pursuant to this Act it ought to have been made, the said Company shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any day to hold and make an election of Directors, in such manner as shall have been regulated by the Bye-laws and Ordinances of the said Corporation.

Directors may
make By-laws.

And appoint
Officers and
servants.

XXII. And be it enacted, That each Stockholder shall be entitled to the number of votes, proportioned to the number of shares, which he or she shall have held in his or her own name at least one month prior to the time of voting, according to the following rates, that is to say, one vote for each share.

XXIII. And be it enacted, That the Directors for the time being, or the majority, shall have power to make and subscribe such rules and regulations as to them shall appear needful and proper, touching the management and disposition of the stock, property, estate and effects of the said Company, and touching the duty of Officers, clerks and servants, and all such other matters and things as appertain to the business of the said Company; and shall also have power to appoint as many Officers, clerks and servants for carrying on the said business, with such salaries and allowances, as to them shall seem fit.

XXIV. And be it enacted, That on the first Monday of September next, a meeting of the Stockholders shall be held at the Town of Hamilton, who in the manner hereinbefore provided, shall proceed to elect seven persons to be Directors, who shall elect by ballot one of their number to be their President, and shall continue in office until the next annual meeting of the said Company, and who, during such continuance in office, shall discharge the duties of Directors in the same manner as if they had been elected at the annual election: Provided always, that if shares to the amount of twenty-five thousand pounds shall not be taken, then the said meeting shall not be held until that amount of stock shall have been taken up, and at least thirty days' notice thereof given in any paper or papers published in the said Gore and Home Districts.

First meeting of Stockholders to elect Directors.

When to be held.

Proviso:
A certain amount to be first subscribed.

XXV. And be it enacted, That the whole Capital Stock of the said Company, inclusive of any real estate which the said Company may have or hold by virtue of this Act, shall not exceed in value two hundred and twenty-five thousand pounds, which amount shall be raised by the several parties hereinbefore named and by such other person or persons who may, after the passing of this Act, become subscriber or subscribers towards such stock, and be held in nine thousand shares of twenty-five pounds each, and that the shares of the Capital Stock be deemed personal property, and may, after the first instalment thereon shall have been paid, be transferred by the respective persons subscribing and holding the same to any other person or persons, and such transfer shall be entered and registered in a book to be kept for that purpose by the said Company.

Amount of Capital stock of Company not to exceed £225,000.

Stock to be deemed personal property, and how transferred.

XXVI. And be it enacted, That no Stockholder in the said Company shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Company, beyond the extent of his, her or their share in the capital of the said Company not paid up.

No Stockholder to be liable for debts due by Company.

XXVII. And be it enacted, That so soon as Directors have been appointed as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company by giving thirty days' notice thereof in any newspapers published in the said Gore and Home Districts for an instalment of five per cent. upon each share which they or any of them may respectively subscribe for, and that the residue of the amount of the shares of the Stockholders shall be payable by instalments at such times and in such proportions as the Directors of the said Company may see fit, so as no such instalments shall exceed five per cent. nor become payable in less than thirty days after public notice in the newspaper or newspapers aforesaid; Provided always, that the said Directors shall not commence the construction of the said Rail-road until the said first instalment shall be paid in.

Directors may call upon Stockholders for instalments.

Proviso.

XXVIII. And be it enacted, That if any Stockholder or Stockholders as aforesaid shall refuse or neglect to pay at the time required any such instalment or instalments as shall be lawfully required by the Directors, as due and payable upon any share or shares, such Stockholder or Stockholders so refusing or neglecting shall forfeit such share or shares as aforesaid with any amount which shall have been previously paid thereon, and that the share or shares so forfeited may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid thereon shall be accounted for and applied in like manner as other monies of the said Company: Provided always, that the purchaser or purchasers shall pay the said Company the amount of the instalment required,

Penalty on Stockholders refusing to pay instalments.

Proviso.

required, over and above the purchase money of the share or shares so purchased by him, her or them as aforesaid, immediately after the sale, and before they shall be entitled to the certificate of the transfer of such shares so purchased as aforesaid: Provided always, that thirty days' notice of the sale of such forfeited shares shall be given in any newspaper or newspapers published in the said Gore and Home Districts, and that the instalments due may be received in redemption of any such forfeited shares at any time before the day appointed for the sale thereof.

Proviso.

Directors to make annual or semi-annual dividends of profits: and to keep accounts and submit statements to the Stockholders and to the Legislature.

XXIX. And be it enacted, That it shall be the duty of the Directors to make annual or semi-annual dividends of so much of the profits of the said Company as to them or a majority of them shall seem advisable, and that once in each year an exact and particular Statement shall be rendered of the state of their affairs, debts, credits, profits and losses, such Statements to appear on the books and to be open to the perusal of any Stockholder at his or her reasonable request; which said Statement, attested on oath, shall be annually submitted to the three branches of the Legislature within fifteen days after the opening of each Session of the Provincial Parliament, and also a statement of the tonnage of goods and number of passengers that have been conveyed along the said road.

Directors may call general meeting of Stockholders to raise further sum by loan, when £75,000 shall have been expended.

XXX. And be it enacted, That whenever the sum of seventy-five thousand pounds of the Capital Stock of the said Company shall have been paid up and expended in the construction of some part or parts of the said Rail-road, it shall and may be lawful for the President and Directors of the said Company, being thereunto authorized by a general meeting of the Stockholders to be called for that purpose, to borrow by way of loan from such party or parties as shall be willing to advance the same, and at the lowest rate of interest for which it can be procured, such sum or sums of money, not to exceed in the whole the balance of the stock not paid up, for the purpose of carrying on and completing the said Rail-road, and the said Rail-road or such part thereof as may be constructed with the income or tolls arising therefrom, after paying the necessary repairs and the expenses of conducting the business thereof, may be pledged as security for the payment of the principal money so borrowed and the interest thereof.

And may mortgage the Road and works, &c. as security.

Road to be commenced within three years after passing of this Act, and completed within ten years, on pain of forfeiture of privileges.

XXXI. And be it enacted, That the said Rail-road which the said Company are by this Act authorized to make, shall be commenced within three years from the passing of this Act, otherwise this Act and every matter and thing therein contained shall cease and be utterly null and void, and the said Rail-road shall be completed and fit for public use within ten years from the passing of this Act, otherwise this Act shall cease to have force and effect with regard to such parts of the said Rail-road as shall not then be completed, but shall remain in force with regard to such parts of it as shall then be complete and in use.

Limitation of actions.

XXXII. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next afterwards; and the defendant or defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

Public Act.

XXXIII. And be it enacted, That this Act shall be deemed and taken to be a public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace, and other persons without being specially pleaded.

XXXIV.

XXXIV. And be it enacted, That notwithstanding the privileges hereby conferred, the Legislature may at any time hereafter make such addition to this Act, or such alterations of any of its provisions as they may think proper for affording just protection to the public, or to any person or persons, body politic or corporate, in respect to their estate, property or rights, or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right, public or private, that may be effected by any of the powers given by this Act.

Legislature
may at any
time alter pro-
visions of this
Act.

SCHEDULE A.

FORM OF CONVEYANCE.

Know all men by these Presents, that I, *A. B.* of, &c. do hereby
in consideration (being the purchase money)
paid to me by the Hamilton and Toronto Rail-road Company, the receipt whereof is
hereby acknowledged, do grant, bargain and sell, convey and confirm unto the said
Hamilton and Toronto Rail-road Company, their Successors and Assigns for ever, all
that certain tract or parcel of land situate, &c. (*here describe the land*) the same having
been selected by the said Company for the purpose of their road.

To have and to hold the said land and premises together with the hereditaments and
appurtenances thereto to the said Hamilton and Toronto Rail-road Company, their
Successors and Assigns for ever.

Witness my hand and Seal, this day of

Signed Sealed and Delivered }
in the presence of }

L. S.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



A N N O D E C I M O
V I C T O R I Æ R E G I N Æ .

C A P . C X I .

An Act to amend an Act passed in the eighth year of Her Majesty's Reign, intituled, *An Act to amend an Act passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled, 'An Act to incorporate the City of Toronto and Lake Huron Rail-road Company.'*

Reserved for the signification of Her Majesty's pleasure, 9th June, 1846.

The Royal Assent given by Her Majesty in Council, on the 30th October, following; and Proclamation made thereof by His Excellency EARL CATHCART, in the Canada Gazette of December 26, 1846.

WHEREAS the City of Toronto and Lake Huron Rail-road Company have, by their Petition, prayed that the Act of the Parliament of this Province, passed in the eighth year of Her Majesty's Reign, amending the Act of the Parliament of Upper Canada, passed in the sixth year of the Reign of His late Majesty King William the Fourth, incorporating the said Company, may be so altered and amended as to empower the said Company to have two or more *termini* on the waters bounding the Province to the westward, and to enable the said Company either by itself or by a union or junction with any other Company or Companies formed in England, under a deed or deeds of settlement, registered there according to law, or chartered in this Province for the same or similar purposes, to extend the benefit of such valuable improvement, to such other parts of this Province, as the wants of the country may require, either to the north or south of the road projected westward from Toronto, and for that purpose to increase the Capital Stock of the said Company, and to extend the time for the completion of any new or additional lines: And whereas from the known results of such improvements in all countries, it is desirable that the prayer of the said Petition should be granted: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the said Act contained or in any other Act of the late Province of Upper Canada, or of the Province of Canada, contained, it shall and may be lawful for the said *City of Toronto and Lake Huron Rail-road Company*, to construct one or more branches from the main line of road extending westward from Toronto to the waters of Lake Huron, so that the said Road may have two or more *termini* on the navigable waters bounding the western extremity

Preamble.

Recital.

8 Vict. c. 83
cited.

U. C. 6 Will.
4. c. 5.

The said Company may construct branches from the main line west of Toronto, so as to have two or more *termini* on Lake Huron.

Proviso—One terminus to be south of Port Sarnia.

Part of Act of U. C. 6 Will. 4. c. 5, relating to the election of Directors, repealed.

Other provisions substituted.

Proviso.

Directors may make By-laws, &c., providing for the junction of the Company with any other Company.

Proviso.

Amount of Capital Stock extended.

Branches of road to be completed within a certain time.

extremity of this Province, at such points as to the Directors of the said Company may seem expedient: Provided always, that no such *terminus* shall be at a point south of Port Sarnia on the outlet of Lake Huron.

II. And be it enacted, That so much of the eleventh section of the said Act, passed in the sixth year of the Reign of King William the Fourth, and incorporating the said Company, as enacts that the eleven Directors by whom the said Company shall be managed, shall be elected from year to year, on the first Monday of the month of July in each year, as is therein provided, be and the same is hereby repealed: And that on the first Monday of July next, and on the first Monday of each succeeding July, three only of the said Directors shall go out of office, and that the said Company shall by a By-law of the said Company, to be passed at the Public Meeting of the Shareholders of the said Company, to be held on the first Monday of July next, provide in what way the retirement of such three Directors shall be regulated: Provided that nothing herein contained shall prevent the re-election of such three Directors so retiring.

III. And be it enacted, That the Directors for the time being, or a majority of them, in addition to the powers given them by the fourteenth section of the Act last above cited, shall and may and are hereby empowered to make such By-laws, Rules and Regulations as to them may seem meet, for the junction or union of the said Company with any other Company or Companies, formed under any deed or deeds of settlement in England and registered there according to law, or chartered in the Province, and for the management, direction and carrying on the business of such united Company as fully and amply in every respect as can be done under the charter incorporating the said Company: Provided always, that such By-laws, Rules and Regulations be not contrary to the enactments in the said Act contained, or repugnant to the laws of the Province.

IV. And be it enacted, That the Capital Stock of the Company be extended to one million and a half of pounds currency.

V. And be it enacted, That any branch or branches extending north or south of the projected line of Rail-road west of the City of Toronto shall be completed within twenty years from the time of the commencement thereof.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DECIMO
VICTORIÆ REGINÆ.

CAP. CXII.

An Act for erecting a Suspension Bridge over the Niagara River, at or near the Falls of Niagara.

Reserved for the signification of Her Majesty's pleasure, 9th June, 1846.

The Royal Assent given by Her Majesty in Council, on the 30th October, following; and Proclamation made thereof by His Excellency EARL CATHCART, in the Canada Gazette of December 26, 1846.

WHEREAS Samuel De Veaux, James Buchanan, Thomas Street, C. B. Stuart, P. Whitney, W. H. Merritt, James Cummings, Oliver T. Macklim, James R. Benson, William Wright, and others, have, by petition, set forth the great facility and convenience which the construction of a Suspension Bridge over the Niagara River near the Falls would offer to the public; and have prayed that they, and such others as may be associated with them for the purposes hereinafter mentioned, may be incorporated, and certain powers granted them to enable them to construct such a bridge: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said Samuel De Veaux, James Buchanan, Thomas Street, C. B. Stuart, P. Whitney, W. H. Merritt, James Cummings, Oliver T. Macklim, James R. Benson, William Wright, and all persons who shall become Shareholders in the undertaking hereinafter mentioned pursuant to this Act, shall be and they are hereby constituted a body corporate and politic by and under the name, style and title of *The Niagara Falls Suspension Bridge Company*, with power to unite with any other persons, company or body politic, to construct a suspension or other bridge across the Niagara River, at or near the Falls, with the necessary approaches thereto with rail, macadamized or other roads, and to connect the same with any other road now or hereafter to be made; and the said Corporation by the name aforesaid shall and may, they and their successors, have continued succession, and be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, answering and being answered unto in all Courts and places whatsoever in all manner of actions, suits, complaints, matters and concerns whatsoever; and they and their successors may and shall have a Common Seal, and may change and alter the same at their will and pleasure; and also that they and their successors, under the said name of *The Niagara Falls Suspension Bridge Company*, shall be by law capable of purchasing, having and holding any real or personal estate to and for the use of the said company, and of conveying

Preamble

Company incorporated for the purpose of building such bridge.

Corporate name.

Corporate powers.

Common Seal.

May hold real and personal estate.

Proviso :
Amount of
such property
limited.

conveying the same for the benefit of the said company: Provided always, nevertheless, that the value of the real estate so holden by the said company at any one time shall not exceed one hundred and twenty-five thousand pounds, currency.

Amount of
capital limited.

II. And be it enacted, That one hundred and twenty-five thousand pounds shall constitute the Capital Stock of the said company, and that the same shall be divided into shares of twenty-five pounds each.

Affairs of the
Company to
be managed by
seven Direc-
tors.

Qualification
for voting at
elections.

Election by
ballot.

Term of
office.

President to
be chosen.

III. And be it enacted, That the stock and affairs of the said Corporation shall be managed by seven Directors, who shall be Stockholders, annually chosen (except at the first election) on the first Monday of May in each year, at such place in the District of Niagara as a majority of the Directors shall appoint, of which due notice shall be given at least ten days before such election: each Stockholder at all elections of Directors shall be entitled, either in person or by proxy, to one vote for each share of stock held in his own name at least fourteen days previous to the time of voting: all elections shall be by ballot, and the persons having the greatest number of votes shall be Directors, and shall hold their offices for one year and until others shall be chosen in their places: the Directors shall, at their first meeting after each election appoint one of their number to be President, and shall have power to appoint a Treasurer.

Payment of
sums subscrib-
ed for how en-
forced.

IV. And be it enacted, That the Directors may require from the Stockholders payment of all sums of money by them subscribed, by instalments not exceeding five per cent. per month, at such times and in such proportions as may be deemed proper, under the penalty of the forfeiture of their respective shares and of all previous payments thereon.

Commission-
ers appointed
to open books
for subscrip-
tions.

Giving thirty
days' notice.

Sum to be paid
on subscribing.

V. And be it enacted, That the said James Buchanan, Thomas Street, James Cummings and W. H. Merritt, Esquires, shall be Commissioners, who shall, on the first Monday in June next, at the Falls aforesaid, and at such other place or places as they or a majority of them shall appoint, open books to receive subscriptions to the Capital Stock of the said Corporation; and that thirty days' public notice shall be given by the said Commissioners of the time and place of opening such books in a public newspaper printed and published in the District of Niagara; and that the said books shall remain open for at least three days at the several places where the same may be opened under the direction of one or more of the said Commissioners; and such sum as they may think expedient, not exceeding five per cent. shall be paid on each share subscribed at the time of subscribing.

First meeting
for distributing
the stock
among the
subscribers.

Notice to be
given by the
Commission-
ers of the first
meeting for the
election of
Directors.

VI. And be it enacted, That the said Commissioners shall assemble at the Falls of Niagara on the first Monday of July next, or as soon thereafter as the whole Capital Stock of the said Corporation shall be taken up, and shall proceed to distribute the said stock amongst the subscribers thereto, and in case there shall be subscriptions to more than the amount of such stock within the term specified for keeping open the said books, it shall then be the duty of the said Commissioners to apportion the same among the subscribers in such manner as a majority of them shall deem most advisable; and as soon as the stock shall be distributed, the said Commissioners shall give notice of a meeting of the Shareholders at such time and place as a majority of the Commissioners shall appoint to choose seven Directors; the notice last mentioned shall be published for the same time and in the same manner as the notice hereinbefore mentioned,

mentioned, and such election shall be made at the time and place so to be appointed by such of the Shareholders as shall attend for that purpose either in person or by lawful proxy; and the said Commissioners shall deliver over the subscription money and books to the said Directors, and the time and place of holding the first meeting of Directors shall be fixed by the Commissioners; and the said Directors shall have power to cause such examinations and surveys of the way to and locations for the said bridge as may be necessary to the selection of the most advantageous site for the same, and shall have full power to enter upon, take and occupy any lands necessary for the construction of the said bridge or the rail or other roads leading to or from the same, first paying or tendering the value thereof, which value shall be determined by two persons selected, one by the claimant and the other by the said company, and in case they do not agree, a third person shall be appointed by the Governor or other Person administering the Government, whose decision shall be final; and the said Directors shall select, and by certificates designate the ways to and site of the said bridge, copies of which certificates shall be filed in the office of the Registrar of the County of Lincoln, and such ways and site shall be deemed the way to and site for the said bridge, and on which the said Corporation may make and construct the said ways and bridge as hereinbefore mentioned.

Papers to be delivered to the Directors.

Survey of site for bridge, and road to it, and power to the Company to take the land requisite. Compensation to parties how to be settled.

Directors to file certain certificates of the site chosen, &c.

VII. And be it enacted, That the fines and forfeitures authorized to be imposed by any Justice of the Peace by this Act, shall and may be levied and collected by distress and sale of the offender's goods and chattels, under the authority of any warrant to be for that purpose issued by any such Justice, who is hereby authorized and empowered to grant the same.

Fines and forfeitures how levied.

VIII. And be it enacted, That if any person shall willingly do or cause to be done any act or acts whatever whereby the said bridge or any thing appertaining thereto shall be impaired or injured, the person or persons so offending shall forfeit and pay to the said corporation treble the damages sustained by means of such offence or injury, to be recovered in the name of the corporation, with costs of suit by action, and shall be, moreover, guilty of a misdemeanor and be punishable by fine or imprisonment, or both, by any Court having cognizance of such offence: Provided that nothing in this Act contained shall be construed to extend to take away the jurisdiction given to Justices of the Peace by an Act passed in the fourth and fifth years of the Reign of Her present Majesty, intituled, *An Act for consolidating and amending the Laws in this Province relative to malicious injuries to property.*

Penalty on persons wilfully injuring bridge or the works connected with it.

Proviso: Jurisdiction of Magistrates under 4 & 5 Vict: cap. 26, not to be affected by this Act.

IX. And be it enacted, That whenever the said bridge shall be completed and its safety fully tested, and the fact certified by a majority of the Directors, the said Corporation may erect a gate or gates and determine and establish the rates of tolls to be demanded for the use of the said bridge.

What tolls may be taken.

X. And be it enacted, That if any person or persons shall forcibly pass any gate without having paid the legal toll, such person or persons shall forfeit and pay to the said Corporation a sum of not less than two pounds and not exceeding twenty pounds, to be recovered before any Justice of the Peace of the Niagara District in the same manner as any other fines are recoverable before Justices of the Peace.

Penalty on persons forcibly passing the bridge. £20. How recovered.

XI. And be it enacted, That the said Corporation shall have power to make such Rules and pass such By-laws as they may think reasonable and proper, with suitable penalties

Corporation authorized to make By-laws.

Penalties
limited.

penalties (not exceeding in any case twenty pounds) touching the speed in passing over the said bridge and the weight to be admitted thereon at any one time; which Rules, as well as the rates of toll, shall be plainly painted on a board or cloth and put up on or near each gate in a conspicuous place; and such penalties, if incurred, shall be recoverable in like manner as the penalties hereby imposed.

Penalty on
toll-gatherer
for misconduct
in certain
cases.

XII. And be it enacted, That if any toll-gatherer shall unreasonably and without cause, delay or hinder any passenger or the passage of any property agreeably to the rule prescribed in such case, or shall demand or receive more than the legal toll, he shall for every such offence forfeit the sum of one pound five shillings currency, to be recovered with costs for the use of the person so delayed, hindered or defrauded; and any one Justice of the Peace for the Niagara District may, on conviction of such offender, fine such person in the said penalty, and levy such fine in the manner aforesaid.

Power of Di-
rectors to
manage the
property of the
Company.

XIII. And be it enacted, That the Directors for the time being, or a majority of them, shall have power to make and subscribe such Rules and By-laws as to them shall appear needful and proper touching the management and disposition of the stock, property, estate and effects of the said Corporation, and touching the duties of its officers, clerks and servants, their appointments and salaries, and all such other matters and things as shall appertain to the business of the said Corporation.

Bridge to be
constructed
within ten
years.

XIV. And be it enacted, That if the said bridge shall not be constructed and used within ten years from the passing of this Act, then the said Corporation and the privileges hereby conferred upon it shall from thenceforth cease and determine.

Limitation of
actions.

XV. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next afterwards; and the defendant or defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

Public Act.

XVI. And be it enacted, That this Act shall be deemed and taken to be a public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace and other persons without being specially pleaded.

Legislature
may at any
time alter the
provisions of
this Act.

XVII. And be it enacted, That notwithstanding the privileges hereby conferred, the Legislature may at any time hereafter make such addition to this Act, or such alterations of any of its provisions as they may think proper for affording just protection to the public, or to any person or persons, body politic and corporate, in respect to their estate, property or rights, or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right, public or private, that may be affected by any of the powers given by this Act.

PROVINCIAL STATUTE

1839

OF

CANADA,

ENACTED by Her Most Excellent Majesty, Our Sovereign Lady VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of An Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth years of Her Majesty's Reign, intituled, "*An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

VOL. II. 2nd Sess. 2nd Parl. Continued.

RESERVED ACT.



MONTREAL:

PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Anno Domini, 1847.

PROVINCIAL STATUTE

OF

CANADA.

ANNO REGNI DECIMO

VICTORIÆ,

DEI GRATIA, BRITANNIARUM REGINÆ.

HIS EXCELLENCY THE RIGHT HONORABLE

JAMES, EARL OF ELGIN AND KINCARDINE,

GOVERNOR GENERAL

**BEING THE SECOND SESSION OF THE SECOND PROVINCIAL PARLIAMENT OF
CANADA.**

RESERVED ACT,

**To which the ROYAL ASSENT was subsequently promulgated by His Excellency JAMES, EARL OF
ELGIN AND KINCARDINE, &c., &c., &c., Governor General.**



1743

A N N O D E C I M O
V I C T O R I Æ R E G I N Æ .

C A P . C X I I I .

**An Act for supplying the City of Quebec and parts adjacent thereto
with Water.**

Reserved for the signification of Her Majesty's pleasure, 9th June, 1846.

The Royal Assent given by Her Majesty in Council, on the 19th December, following; and Proclamation made thereof by His Excellency JAMES, EARL OF ELGIN AND KINCARDINE, in the Canada Gazette of February 20, 1847.

WHEREAS the supplying of the City of Quebec and the parts thereunto adjacent with good and wholesome water would be of great public advantage: And whereas a plentiful supply of pure and wholesome water, at greatly reduced rates, may be procured from sources in the vicinity of the said City: And whereas the Mayor and Councillors of the said City of Quebec, incorporated by law, have not funds at their disposal or which they are now empowered by law to raise, sufficient to effect the object aforesaid, unless they suspend the Public Works and improvements now requisite in the said City, and they have therefore prayed that further powers be granted them in the behalf aforesaid: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the said Corporation of *The Mayor and Councillors of the City of Quebec*, and they are hereby authorized and empowered, by themselves, their agents, deputies, officers, workmen, servants and assistants, from time to time to make, erect, construct, repair and maintain, within or without the limits of the said City, and at such distance as may not exceed twenty-five miles from the said City, all such buildings, houses, sheds, engines, water-houses, reservoirs, reservatories, water wheels, fire engines, machinery, working gears, cisterns, ponds, basins of water, main pipes, rider pipes, stand pipes, service pipes, conduct pipes, branches of iron, lead or other metal, plugs, cocks, chambers, cocks in common, stop cocks, stop backs, valves, fire plugs, air plugs, fire cocks, boxes, forcing mains, ferrils, feeders, cam-pirs, drains, pumps, sluices and other works, devices or things, in such manner and of such construction as they shall think necessary, proper and expedient for forcing, conveying and conducting into and throughout the said City of Quebec and parts adjacent a sufficient quantity of good and wholesome water for the use and supply of the inhabitants of the said City of Quebec and the parts thereunto adjacent, as also all lead, leaden and other pipes, brass cocks, tools and materials of every description.

Preamble.

The Corporation of the City of Quebec may construct Water Works within the said City, or within a certain distance therefrom.

The Corporation may improve, alter, or remove the said Water Works, and may acquire additional real estate for that purpose, and dispose of that previously acquired by them for a like purpose.

Rights of the Seigniors saved.

II. And be it enacted, That it shall and may be lawful for the said Corporation of *The Mayor and Councillors of the City of Quebec*, by any By-law to be hereafter passed in the manner provided by the Ordinance incorporating the said City and the Ordinance and Act amending the same, or by any Act that may hereafter be passed for the same purpose, and they are hereby authorized and empowered to improve, alter or remove the said Water Works, or any part or parts thereof, and to change the site of the several engines and place or sources of supply thereof, and also by themselves, their agents, deputies, officers, workmen, servants or assistants, from time to time to erect, construct, repair and maintain any where within twenty-five miles from the nearest limits of the said City, all such buildings, houses, sheds, engines, water-houses, reservoirs, reservatories, water sheds, fire engines, machinery, working gears, cisterns, ponds and basins of water, and the other works, devices and things hereinbefore recited, in such manner and of such construction as they shall think necessary, proper or expedient for forcing, conveying and conducting, into and throughout the whole of the said City and the parts thereunto adjacent, or conducive to the existence, improvement or continuance of the said Water Works; and for effecting the foregoing or any other purpose or purposes connected with the said Water Works, it shall and may be lawful for the said Corporation, and they are hereby authorized and empowered to purchase, hold and acquire any lands, tenements and immoveable estates, servitudes, usufruits, hereditaments, or other real property of any description, within the said City of Quebec or in the vicinity thereof, not distant more than twenty-five miles from the limits of the said City, which shall and may be necessary for the said Water Works, or for improving, altering, enlarging or extending the same; saving nevertheless to the Seignior or Seigniors within whose *censine* the said lands, tenements, immoveable estates, hereditaments or other real property as aforesaid, so purchased, may be situate, his or their several and respective rights that may become legally due upon the commutation of the tenure of such lands and tenements, which commutation shall be effected by the said Corporation with the least possible delay; and in case of the removal or alteration of the site of any such Works as aforesaid, to dispose of the lands or other property theretofore held by the Corporation as the site of such Works, and others to purchase and acquire in like manner instead thereof.

Corporate bodies and all other parties authorized to sell any real estate required by the Corporation under this Act, and indemnified for selling the same.

III. And be it enacted, That it shall and may be lawful for all bodies politic or corporate, or collegiate corporations aggregate or sole, communities, husbands, tutors or guardians, curators, *grévés de substitution*, and all executors, administrators and other trustees or persons whatsoever, who are or shall be seized or possessed of, or interested in any lands, tenements, immoveable estate, servitudes, usufruits and hereditaments, or other real property within the said City, or within twenty-five miles thereof, which may be selected and desired by the said Corporation for the purposes of the said Water Works, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of all persons whom they represent, or for whom or in trust for whom they are, or shall be seized, possessed or interested as aforesaid, whether minors or issue unborn, lunatics, idiots, *femes-covert*, or other person or persons, to contract for, bargain, sell and convey such lands, tenements, immoveable estates, servitudes, and hereditaments or other real property, and such contracts, sales, agreements, assurances and conveyances so to be made, shall be valid and effectual in law, to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary notwithstanding; and all bodies politic, corporate or collegiate, communities, corporations and persons whatsoever, so contracting, selling or conveying as aforesaid, are hereby indemnified for

for and in respect of any such sale, which he, she, or they shall respectively make, by virtue of or in pursuance of this Act; securing always the rights of any person or party to the whole or any part of the purchase money; to be paid by the said Corporation for any real property purchased as aforesaid.

IV. And be it enacted, That the said Corporation shall have full power, notwithstanding any law to the contrary, to take and enter into, after paying, tendering, or depositing the value thereof, such land, ground, or real property of any description lying within the said City or within twenty-five miles of the limits thereof, not belonging to the Crown or vested in any officer, person or body for the public uses of the Province, as may be necessary for enabling the said Corporation to carry this Act fully into effect, according to the true intent and meaning thereof, in the same manner, and under the same provisions, limitations and conditions, as if such land, ground, or real property lay within the City of Québec, and were required for opening a new street or for any other purpose for which the said Corporation may lawfully take and enter into land, ground, or real property within the said City, after paying, tendering, or depositing the value thereof; and it shall be lawful for the Governor, or person administering the Government, in Council, if he shall deem it expedient, and on such terms and conditions as to him shall seem meet, to grant or lease to the said Corporation such portion of the beach or ground covered by the waters of the River Saint Lawrence or other river, or of any other lands of the Crown, or such right or privilege of using the stream or water of any such river, as may be necessary to enable the said Corporation more fully to carry this Act into effect; any Act or law to the contrary notwithstanding.

Corporation may take and enter upon any land, being private property required for the purposes of this Act, after payment or tender of the value thereof.

Governor in Council may grant or lease to the Corporation any Beach lots or Crown lands, or the right of using the water of any stream.

V. And be it enacted, That it shall be lawful for the said Corporation, and their agents, deputies, officers, workmen, servants and assistants, to dig, break up, and remove the soil, posts, sewers, drains, pavements and gravelled ways, of any of the public highways, roads, streets, squares, hills, market places, lanes, open areas, alleys, yards, courts, waste grounds, footways, quays, bridges, gates, gateways, closes, ditches, walls, precincts and other passages and place within the said City, and within twenty-five miles of the limits thereof, doing no unnecessary damage in the premises, and to enter into and make use of any private lands or grounds within the said City and within twenty-five miles of the nearest part thereof, and to dig and sink branches, and lay and drive pipes, and put, fix and establish stop cocks, fire plugs, air-cocks and branches from such pipes, and to widen common passages, for the laying and fixing such pipes, and all such matters and things as aforesaid, in such places and in such manner as they shall judge necessary for conveying the water to the respective houses, offices and other tenements of the said inhabitants of the said City, and the parts thereunto adjacent; and from time to time, as occasion may require, to alter the position of, and to repair, relay and maintain such pipes; stop-cocks, plugs, machinery, conduct-pipes, devices, matters and works aforesaid, and to do and perform all such other acts as shall from time to time be necessary or proper, for completing, amending, repairing, improving and using the works already made or provided, or to be made, done or provided for the purposes aforesaid: Provided always, that it shall not be lawful for the said Corporation, or any person acting under their authority, to enter into and make use of any private lands or grounds within the limits of the said City, and within twenty-five miles thereof, without the consent of the owner or owners thereof, except after paying, tendering or depositing the value thereof, as hereinbefore provided: And provided also, that the respective persons, who shall open and break up, or cause to be opened

The Corporation authorized to break up streets &c., and to erect works for conducting the water.

And to enter upon private lands.

And to make alterations from time to time.

Corporation not to make use of private property without consent of the owner except after paying or tendering the value thereof.

OR

Grounds opened for the laying of pipes, and trenches to be filled, and the pavements or ground made good.

Precaution for preventing accident.

or broken up, any ground for laying, taking or repairing any pipe, or other work as aforesaid, by virtue of this Act, shall, and they are hereby required to take care, as far as may be, to preserve a free and uninterrupted passage through any street, lane, alley, road, square, public place, highway or other places, while the works are in progress, and to cause the trenches to be filled in, and the pavement or ground made in as good a condition as before the commencement of the work, without any unnecessary delay, and the rubbish occasioned thereby to be carried away as soon as reasonably may be, and in the meantime, to cause the place where the ground shall be opened or broken up as aforesaid, to be fenced or guarded with lamps or with watchmen during the night so that the same may not be dangerous to passengers, upon pain of forfeiting for every neglect, to any person suing for the same, in a summary manner before any Justice of the Peace for the District, on the oath of one credible witness other than the party suing, a sum not exceeding five pounds current money of this Province, over and above all such damages as may be recovered against the said Corporation in any civil action.

When buildings are possessed by different proprietors or tenants, how the Corporation is to act, making satisfaction for all damages.

VI. And be it enacted, That where there are buildings within the said City or the parts adjacent thereto, the different parts whereof shall belong to different proprietors, or shall be in possession of different tenants or lessees, the said Corporation shall have power to carry pipes to any part of any building so situate, passing over the property of one or more proprietors, or in possession of one or more tenants, to convey the water to that of another, or in the possession of another, the pipes being carried up and attached to the outside of the building, and also to break up and uplift all passages which may be a common servitude to neighbouring proprietors, and to dig and cut trenches therein for the purpose of laying down pipes or taking up and repairing the same, the said Corporation doing as little damage as may be in the execution of the powers granted by this Act, and making satisfaction to the owners or proprietors of buildings or other property, for all damages to be by them sustained in or by the execution of all or any of the said powers, subject to which provisions this Act shall be sufficient to indemnify the said Corporation or their servants or those by them employed, for what they or any of them shall do in pursuance of the powers granted by this Act.

Water Works so to be situated as not to endanger the public health or safety.

VII. And be it enacted, That the said Corporation shall so maintain or locate their Water Works and all apparatus and appurtenances thereunto belonging and appertaining or therewith connected, and wheresoever situated, as in no wise to endanger the public health or safety.

Penalty on procuring water without the consent of the Corporation, from their Water Works.

VIII. And be it enacted, That if any person or persons shall lay or cause to be laid any pipe or main to communicate with any pipe or main belonging to the said Corporation, or in any way obtain or use its water without the consent of the said Corporation, he or they shall forfeit and pay to the said Corporation the sum of twenty-five pounds current money of this Province; and also a further sum of twenty shillings for each day such pipe or main shall so remain; which said sum, together with costs of suit in that behalf incurred, may be recovered by civil action in any Court of Law in this Province, having civil jurisdiction to that amount.

Penalty on persons polluting waters in reservoirs.

IX. And be it enacted, That in order to preserve the water now or hereafter to be conveyed into the City, and the parts thereunto adjacent, clean and wholesome, if any person shall bathe or wash, or cleanse any cloth, wool, leather, skins, animals, or any noisome or offensive thing in any of the reservoirs, cisterns, ponds, sources or fountains, from

from which the water to supply the said City is to be obtained or conveyed, or cast, throw or put any filth, dirt, dead carcasses, or other noisome or offensive thing therein, or cause, permit, or suffer the water of any sink, sewer or drain to run or be conveyed into the same, or cause any other annoyance to be done to the water therein, every such person shall, on conviction thereof before any Justice of the Peace of the District, on the oath of one credible witness, be by the said Justice before whom such person shall be tried or convicted, adjudged and condemned to pay a penalty for every such offence, not exceeding five pounds current money of this Province, one half to be applied to the use of the said Corporation, and the other half to him or her who shall sue for the same, and in case the party suing for the same shall be the Corporation itself, or any of their officers or servants, then the whole of the said penalty shall be applied to the uses of the said Corporation, and the said Justice may also in his discretion further condemn such person to be confined in the Common Gaol of the District for a space of time not exceeding one month, as to such Justice may seem meet.

How recover-
able.

X. And be it enacted, That if any person or persons shall wilfully or maliciously hinder, obstruct, embarrass or interrupt the said Corporation, their agent or agents, officers, workmen, servants or assistants, or any of them, in making, erecting, repairing or doing or performing any of the works aforesaid, or in the exercise of any of the powers and authorities by this Act granted, or shall break up, pull down, take away, put out of order, destroy, damage, or injure, any engine, water-house, pipe, plug or other works, or any matter, apparatus, device, or thing already made or provided, or which shall be made or provided for the purposes aforesaid, or any of the materials used or provided for the same or ordered to be erected, laid down or belonging to the said Corporation in connexion with the said works, or shall in anywise wilfully do any other injury or damage for the purpose of obstructing, hindering, interrupting or embarrassing the construction, completion, maintaining or repairing of the said works, or in any wise cause or procure the same to be done, every person or persons so offending shall, for every such offence, forfeit and pay to the said Corporation the amount of damages sustained by means of such offence or injury, to be recovered by the said Corporation, with costs of suit, by action of debt before any competent Court or Tribunal within this Province.

Penalty on
persons da-
maging or in-
juring pipes or
other works.

How recover-
able.

XI. And be it enacted, That it shall and may be lawful for the said Corporation as aforesaid, and they are hereby authorized and empowered to make such By-laws as to them shall seem requisite and necessary, for prohibiting, by fine not exceeding five pounds currency, or imprisonment not exceeding one month, any person being occupant, tenant or inmate of any house, supplied with water from the said Water Works, from vending, selling or disposing of the said water, from giving it away, or permitting it to be so taken or carried away, or from using or applying it to the use or benefit of others, or to any other than to his, her or their own use or benefit, or increasing the supply of water agreed for with the said Corporation, or wrongfully, negligently or improperly wasting the water, for regulating the time, manner, extent and nature of the supply of water to be provided and supplied by the said works, the tenements or parties to which and whom the same shall be furnished, the price or prices to be exacted therefor, the time and mode and circumstances of payment therefor, and each and every other matter or thing, relating to or connected therewith, which it may be necessary or proper to direct, regulate or determine for issuing to the inhabitants of the said City a continued and abundant supply of pure and wholesome water, and to prevent the practising of frauds upon the said Corporation with regard to the water so to be supplied.

Corporation
may make By-
laws for the re-
gulation,
maintenance
and protection
of the Water
Works: and
may thereby
impose fines
and fix the
rates to be paid
for the water,
&c.

XII.

Corporation to have no power to enact any By-law imposing any general water-rent or tax, or to compel proprietors, &c. to take the water.

XII. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to confer upon the said Corporation any additional right of assessment beyond that now by them enjoyed, or of enforcing any general water-rent or tax, or to permit the said Corporation by any By-law or other Municipal regulation hereafter to be determined upon by the said Corporation, in reference to the said Water Works, to subject any proprietor, householder or other person or persons to any general water-rent or tax, unless he or they be actually supplied with water, or to compel any such proprietor, householder or other person or persons to receive the said water, or the conduits thereof, into his or their premises.

Corporation authorized to issue Debentures or Bonds to the amount of £50,000, redeemable on or before 1st Nov. 1860, with interest payable semi annually.

Proviso : Contract to be first entered into.

XIII. And be it enacted, That for the purpose of establishing the said Water Works as aforesaid, it shall and may be lawful for the said Corporation, before or after the completion of the said Water Works, to issue under the hand of the Mayor, and the seal of the said Corporation, Debentures or Corporation Bonds, to the amount of fifty thousand pounds, current money aforesaid, payable on or before the first day of November, in the year of Our Lord, one thousand eight hundred and sixty, and bearing interest, payable semi-annually, on the first day of November and May, in each and every year, and at a rate not exceeding six per centum per annum. Provided always, that before the issuing of any such Debentures or Corporation Bonds, the said Corporation shall have enacted and ordained a By-law specifying the principal streets, lanes and public places within the limits of the City which are to be supplied with water, and shall, after duly advertising for tenders, have entered into a contract with the lowest bidder giving security to their satisfaction for the performance of the work and for keeping the same in good repair for three years, at a sum not exceeding fifty thousand pounds, including the necessary real property and materials.

Revenues arising from the Water Works to be applied to the payment of the interest of the money borrowed and to the extinction of the debt.

XIV. And be it enacted, That all the revenues arising from or out of the supplying of water, or from the property, moveable or immoveable, connected with the said Water Works, to be established by the said Corporation under this Act, shall, after providing for the interest accruing on the Debentures or Corporation Bonds issued by the said Corporation in pursuance of this Act, be formed into a fund separate and apart from the other funds of the Corporation, and applied by the said Corporation to the extinction of the debt which may be contracted by reason of the establishment of the said Water Works, and afterwards such revenues shall make part of the general funds of the Corporation, and may be applied accordingly.

Holders of Debentures to have a special privilege on the Water Works.

XV. And be it enacted, That the said Water Works and also the land to be acquired for the purposes aforesaid, and every matter and thing therewith connected, shall be and they are hereby specially charged, pledged, mortgaged and hypothecated for the repayment of any sum or sums which may be borrowed by the said Corporation for the purposes of this Act, as well as for the due and punctual payment of the interest thereupon; and all, each and every of the holders of the said Debentures shall have a concurrent pledge, mortgage, hypothec or privilege on the said property for securing the payment of the said Debentures and the interest thereon.

Debentures or the interest thereon may be paid to the City Treasurer in payment of

XVI. And be it enacted, That receipts for any interest due on all Debentures or Corporation Bonds that shall lawfully be issued by the authority of this Act, and which shall from time to time remain undischarged and uncanceled, as well as such Debentures or Corporation Bonds themselves, shall and may, after the period therein appointed

appointed for the payment of either thereof, be received and taken by the Treasurer of the said City, from any person making payment to him upon any account or for any cause whatever on account of the said City, and that the same shall be deemed and taken as money, and as such shall be charged against, and credited to, such Treasurer aforesaid, in his accounts with the said City : Provided always, that no interest shall run or be paid upon or for any such Debenture or Corporation Bond during the time such Debenture or Corporation Bond so paid shall remain in the hands of the Treasurer as aforesaid, but for such time the interest on every such Debenture or Corporation Bond shall cease.

any debt due the City.

Interest not to run on Debentures while in the hands of the City Treasurer.

XVII. And be it enacted, That the person or persons who shall pay any such Debenture or Corporation Bond so bearing interest, to the City Treasurer aforesaid, shall at the time of making such payment, put his, or her, or their name or names, and write thereupon in words at length, the day of the month and year in which he, she or they so paid such Debenture or Corporation Bond, bearing interest ; all which the said City Treasurer shall take care to see done and performed accordingly ; and to the day so ascertained the said City Treasurer shall be allowed the interest which he shall have paid or allowed upon such Debenture or Corporation Bond in his accounts with the said City.

Persons paying Debentures to the City Treasurer, to indorse the time of payment.

XVIII. And be it enacted, That if any person or persons shall forge, alter or counterfeit any such Debenture or Corporation Bond which shall be issued under the authority of this Act and remaining uncanceled, or any stamp, indorsement or writing therein or thereon, or tender in payment any such forged, altered or counterfeit Debenture or Corporation Bond, or any Debenture or Corporation Bond with such counterfeit indorsement or writing thereon or therein, or shall demand to have such altered or counterfeit Debenture or Corporation Bond or any Debenture or Corporation Bond, with such altered or counterfeit indorsement or writing thereon or therein, exchanged for ready money by any person or persons who shall be obliged or required to exchange the same, or by any other person or persons whomsoever, knowing the Debenture or Corporation Bond, so tendered in payment or demanded to be exchanged, or the indorsement or writing thereon or therein, to be forged and counterfeit, and with intent to defraud the said City, or the person appointed to pay off the same, or any of them, or any other person or persons, bodies politic or corporate, then every such person or persons so offending, being thereof convicted, shall be adjudged a felon and shall be liable at the discretion of the Court before which he, she or they may be tried, to be confined at hard labour in the Provincial Penitentiary, for any period not less than three years, or to be imprisoned in any other Prison or place of confinement for any period not exceeding two years.

Punishment on persons forging or altering or issuing forged or counterfeit Debentures.

XIX. And be it enacted, That it shall be the duty of the City Treasurer aforesaid, whenever called upon to pay or allow the interest upon any of the Debentures or Corporation Bonds issued under the authority of this Act, to take care to have the same indorsed on such Debenture or Corporation Bond at the time of payment thereof, expressing the period up to which the said interest shall have been so paid.

City Treasurer to indorse the payment of interest on any Debenture.

XX. And be it enacted, That at any time after the Debentures or Corporation Bonds, or any of them that shall be issued under the authority of this Act, shall respectively become

Corporation may by notice call in Debentures.

tures over due, and interest to stop on all Debentures so called in, after six months shall have expired.

become due according to the terms thereof, it shall and may be lawful for the Corporation aforesaid, if they shall think proper so to do, to direct a notice to be inserted in two or more of the newspapers published in the said City, in the English and French languages, requiring all holders of the said Debentures or Corporation Bonds to present the same for payment, according to the conditions thereof, and if after the insertion of such notices for three months, any Debentures or Corporation Bonds then payable shall remain out more than six months from the first publication of such notice, all interest on such Debentures or Corporation Bonds, after the expiration of the said six months shall cease and be no further payable in respect of the time which may elapse between the expiration of the said six months, and their presentment for payment.

Corporation may call in Debentures before they are made payable; and after six months' notice all interest thereon to be stopped.

XXI. And be it enacted, That whenever it shall be deemed expedient by the said Corporation to redeem the said Debentures or Corporation Bonds, or any of them, at any time prior to the date at which the same may be made payable, with a view to diminish the debt to be contracted in the establishment of the said Water Works, it shall and may be lawful for the said Corporation to direct a notice to be inserted in all the newspapers published in the said City of Quebec, requiring all holders of the said Debentures or Corporation Bonds to present the same for payment; and if after the insertion of such notice for three months, any Debentures or Corporation Bonds, then issued, shall remain out more than six months after the first publication of such notice, all interest on such Debentures or Corporation Bonds, after the expiration of the said six months shall cease, and be no further payable in respect of the time which may elapse between the expiration of the said six months and their presentment for payment.

Corporation not to be prevented from borrowing money for the general purposes of the City as heretofore.

XXII. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to diminish the power and authority of the Corporation aforesaid, hereafter to borrow money on the credit of the said City, for the general uses and purposes of the said City as fully and effectually as though the said City were not indebted for the establishment of the Water Works as aforesaid, or that Debentures or Corporation Bonds had not been issued by them for the amount of the cost thereof, or as if this Act had not been passed; any Act, Statute or Law or provision thereof to the contrary notwithstanding.

Corporation may appoint a Superintendent or Engineer; taking proper security.

XXIII. And be it enacted, That it shall and may be lawful for the said Corporation, and they are hereby required from time to time, as occasion may require, to appoint a fit and proper person, to be the Superintendent or Engineer, for the management of the said Water Works, and of any Gas Works under the control of the said Corporation, and to prescribe and regulate the duties of the said Office, and at their pleasure to remove any such person from the said Office, and appoint another in his place; and the said Corporation shall take such security for the due execution of the said Office as they shall think proper, and shall and may grant and allow to the said Officer such salary, allowance or other compensation for his services as they may think fit. Provided always, that such Superintendent or Engineer shall account to the said Corporation quarterly, or oftener if required.

Proviso.

Particular statements of the revenue and expendi-

XXIV. And be it enacted, That the said Corporation shall be, and they are hereby required to keep or cause to be kept separate books and accounts of the receipts and disbursements for and on account of the said Water Works, distinct from the books and

and accounts relating to the other property, funds or assets belonging to the said City, and shall annually, on or after the first day of January in each and every year, cause a statement of the affairs of the said Water Works to be published in two or more of the newspapers of the said City, in the English and French languages, wherein shall be stated the amount of the rents, issues and profits arising from the said Works, the number of tenants supplied with water, the extent and value of the moveable and immoveable property thereunto belonging, the amount of Debentures or Corporation Bonds then issued and remaining unredeemed and uncanceled, and the interest paid thereon, or yet due and unpaid; the expenses of collection and management, and all other contingencies, salaries of officers and servants, the cost of repairs, improvements and alterations, the prices paid for the acquisition of any real estate that may be required for the use of the said Water Works, as also the value received for any real estate that may be sold and disposed of by the said Corporation, and generally such a statement of the revenue and expenditure of the said Water Works as will at all times afford to the citizens of the said City of Quebec, a full and complete knowledge of the state of the affairs of the said Quebec Water Works.

ture of the Water Works to be kept and annually published. What such statements shall shew.

XXV. And be it enacted, That it shall be lawful for the said Corporation before or after the said Water Works are commenced, to lease, assign, transfer and make over the rights, privileges, powers and authorities hereby conferred for such a period not exceeding twenty years, and upon such terms and conditions as may be established by a By-law to be by them made in that behalf; and at the end of such period, or sooner, by consent of parties, it shall and may be lawful for the said Corporation to repurchase the same, and any Water Works that may be established by the purchaser or purchasers, lessee or lessees of the same, and pay for the same in the manner and by the means aforesaid, and thereupon establish the said Works in the same manner and way as if the same had been made and constructed by the said Corporation according to the provisions of this Act.

Corporation may, before or after the Water Works are commenced, assign or make over the privileges, &c., hereby conferred, and may repurchase the same.

XXVI. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to prevent any person or persons, body corporate, politic or collegiate from constructing any Works for the supply of water to his or their own premises, or to prevent the Legislature of the Province at any time hereafter, from altering, modifying or repealing the powers, privileges or authorities hereinbefore granted to or obtained by the said Corporation.

Act not to prevent private water works nor to bind the Legislature.

XXVII. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any bodies politic or corporate, except such only as are herein mentioned.

Rights of the Crown, &c. saved.

XXVIII. And be it enacted, That if any action or suit shall be brought against any person or persons for any thing done in pursuance of this Act, the same shall be brought within six calendar months next after the fact committed, or in case there shall be a continuation of damages, then within six calendar months after the doing or committing such damages shall cease, and the Defendant or Defendants shall and may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance of and under the authority of this Act; and if it shall appear to have been so done, or if any such action or suit shall be

Limitation of Actions.

General issue may be pleaded and special matter given in evidence.

Treble costs.

be brought after the time before limited for bringing the same, then the Judgment shall be entered for the Defendant or Defendants, or if the Plaintiff or Plaintiffs shall become nonsuit or shall suffer discontinuance of his or their action or suit, after the Defendant or Defendants shall have appeared, or if a Judgment shall be entered against the Plaintiff or Plaintiffs, or if upon exceptions or otherwise, Judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have treble costs, and shall have such remedy for the same as any Defendant hath for costs of suit in other cases of law.

The Ordinances incorporating the City of Quebec, and the Act amending them, in so far as they are not repugnant to this Act, to govern any matter required or authorized under this Act.

XXIX. And be it enacted, That all the enactments and provisions of the Ordinance of the Governor and Special Council of the late Province of Lower Canada, passed in the third and fourth years of Her Majesty's Reign, and intituled, *An Ordinance to incorporate the City and Town of Quebec*, as amended by a certain Ordinance of the Governor and Special Council aforesaid, passed for that purpose in the fourth year of Her present Majesty's Reign, and intituled, *An Ordinance to amend the Ordinance to incorporate the City and Town of Quebec*, and both Ordinances as amended by the Act passed in the last Session of the Legislature of this Province, intituled, *An Act to amend the Ordinances incorporating the City of Quebec*, shall, in so far as they shall not be repugnant to or inconsistent with the express enactments and evident intent of this Act, extend to, and govern each and every act and thing required or authorized to be performed and done, under the authority of this Act, as if this Act had formed part of the said last mentioned Ordinances or either of them.

All Acts or Provisions of law repugnant to or inconsistent with this Act to be repealed, except as to past transactions.

XXX. And be it enacted, That all Acts or provisions of Law in force in this Province, or in any part thereof, before or up to the time when this Act shall come into force, which shall be inconsistent with, or contradictory to this Act, or which make any provision in any matter provided for by this Act, other than such as is hereby made in such matters, shall, from and after the time when this Act shall come into force, be and they are hereby repealed, except in so far as may relate to any circumstance, act or thing occurring, done or effected before the commencement of this Act, which shall be dealt with, adjudged upon, and determined, as if this Act had not been passed.

This Act to be a Public Act.

XXXI. And be it enacted, That this Act shall be and is hereby declared to be a Public Act, and shall as such be judicially taken notice of by all Judges, Justices and other persons in this Province, without being specially pleaded.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.

PROVINCIAL STATUTE

OF

CANADA,

ENACTED by Her Most Excellent Majesty, Our Sovereign Lady VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of An Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth years of Her Majesty's Reign, intituled, "*An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

VOL. II. 2nd Sess. 2nd Parlt. Continued.

RESERVED ACT.



MONTREAL:

PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Anno Domini, 1847.

PROVINCIAL STATUTE

OF

CANADA.

ANNO REGNI NONO

VICTORIÆ,

DEI GRATIÂ BRITANNIARUM REGINÆ.

HIS EXCELLENCY THE RIGHT-HONORABLE

CHARLES MURRAY, EARL CATHCART, K. C. B.

GOVERNOR GENERAL.

**BEING THE SECOND SESSION OF THE SECOND PROVINCIAL PARLIAMENT OF
C A N A D A .**

RESERVED ACT

**To which the ROYAL ASSENT was subsequently promulgated by His Excellency JAMES,
EARL OF ELGIN AND KINCARDINE, K. T. &c. &c. &c. Governor General**



ANNO NONO

VICTORIÆ REGINÆ.

CAP. CXIV.

An Act for granting a Civil List to Her Majesty.

Reserved for the signification of Her Majesty's pleasure, 9th June, 1846.

The Royal Assent given by Her Majesty in Council, on the 16th August, 1847; and Proclamation made thereof by His Excellency JAMES, EARL OF ELGIN AND KINCARDINE, in the Canada Gazette of 11th October, 1847.

MOST GRACIOUS SOVEREIGN :

WHEREAS Your Majesty has been most graciously pleased to declare to Your faithful Canadian Commons in Provincial Parliament assembled, Your Majesty's Gracious desire to owe to the spontaneous liberality of Your Canadian people, such Grant by way of Civil List as shall be sufficient to give stability and security to the Great Civil Institutions of the Province, and to provide for the adequate remuneration of able and efficient Officers in the Executive, Judicial and other Departments of Your Majesty's Public Provincial Service, the granting of which Civil List constitutionally belongs only to Your Majesty's faithful Canadian people in their Provincial Parliament: We, therefore, Your Majesty's most dutiful and loyal subjects, the Commons of Canada in Provincial Parliament assembled, desirous that a certain competent Revenue for the purpose, may be settled upon Your Majesty, (to whom may God grant a long and happy Reign) as a testimony of our unfeigned affection to Your Sacred Person and Government, have accordingly freely resolved to grant unto Your Majesty, a certain Revenue payable out of the Consolidated Revenue Fund of this Province; We do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, That all duties and revenues over which the respective Legislatures of Upper Canada or Lower Canada had, before the passing of the Act of the Imperial Parliament, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, or over which the Legislature of this Province has, or may have power of appropriation, shall form one Consolidated Revenue Fund, to be appropriated for the Public Service of this Province, in the manner and subject to the charges hereinafter mentioned.

Preamble.

Duties and Revenues formerly under the control of the Legislature of Upper or of Lower Canada, or under the control of the Legislature of this Province, to form the Consolidated Revenue Fund of Canada, subject to certain charges.

The said Fund to be charged with the expenses of the collection and management thereof, the same being duly audited.

A sum not exceeding £34,638. 15s. 4d., appropriated out of the said Fund for the purposes mentioned in Schedule A.

And a sum not exceeding £39,245. 16s. for the life of Her Majesty and for five years after, for the purposes mentioned in Schedule B.

The said sums to be paid by the Receiver General on Warrants, and to be accounted for to Her Majesty.

The sums in the first column of the said Schedules, to be those payable while the offices are held by the present incumbents; afterwards those in the second column.

Offices named in Schedule B. may be abolished, and the appropriation of the sums therein mentioned may be varied.

Accounts to be laid before the Legislature.

Proviso: Amount payable for pensions limited. Pension lists to be laid yearly before the Legislature.

Surrender of hereditary Revenues of the

II. And be it enacted, That the Consolidated Revenue Fund of this Province shall be permanently charged with all the costs, charges and expenses, incident to the collection, management and receipt thereof; such costs, charges and expenses being subject nevertheless to be reviewed and audited in such manner as shall be directed by any Act of the Legislature.

III. And be it enacted, That there shall be payable in every year to Her Majesty, Her Heirs and Successors, out of the Consolidated Revenue Fund of this Province, a sum not exceeding Thirty-four thousand, six hundred and thirty-eight pounds, fifteen shillings and four pence currency, for defraying the expense of the several services and purposes named in the Schedule A to this Act annexed; and during the life of Her Majesty, and for five years after the demise of Her Majesty, there shall be payable in every year to Her Majesty, Her Heirs and Successors, out of the said Consolidated Revenue Fund, a further sum not exceeding Thirty-nine thousand, two hundred and forty-five pounds, sixteen shillings currency, for defraying the expense of the several services and purposes named in the Schedule marked B to this Act annexed; the said sums of Thirty-four thousand, six hundred and thirty-eight pounds, fifteen shillings and four pence, and Thirty-nine thousand, two hundred and forty-five pounds, sixteen shillings, to be issued by the Receiver General in discharge of such Warrant or Warrants as shall be from time to time directed to him under the hand and seal of the Governor; and the said Receiver General shall account to Her Majesty for the same through the Lords Commissioners of Her Majesty's Treasury in such manner and form as Her Majesty shall be graciously pleased to direct.

IV. And be it enacted, That the sums set down in the first column opposite to each Office or Department in the said Schedules A and B shall be payable for each, while the present Incumbents shall respectively remain in office, and as often as any such present Incumbent shall cease to hold such office, the sums respectively mentioned in the first column shall cease to be payable, and the sums mentioned in the second column shall, as each case arrives, be payable instead as in the said Schedules mentioned.

V. And be it enacted, That it shall be lawful for the Governor to abolish any of the Offices named in the Schedule B, or to vary the sums thereby appropriated to such purposes connected with the administration of the Government of this Province, as to Her Majesty, Her Heirs and Successors shall seem fit; and that accounts in detail of the expenditure of the several sums expended under the authority of this Act, shall be laid before both Houses of the Legislature within thirty days from the beginning of the Session next after such expenditure shall be made: Provided always, that not more than Two thousand, two hundred and twenty-two pounds, two shillings and four pence, shall be payable at the same time for pensions to the Judges out of the sum mentioned in the said Schedule A, and that not more than Five thousand, five hundred and fifty-five pounds, eleven shillings and one penny, shall be payable at the same time for pensions out of the sum mentioned in Schedule B, and that a List of all such pensions, and of the persons to whom the same shall have been granted, shall be laid in every year before the Legislature.

VI. And be it enacted, That during the time for which the said several sums mentioned in the said Schedules are severally payable, the same shall be accepted and taken by Her Majesty by way of Civil List instead of all Territorial and other Revenues now at the

the disposal of the Crown arising in this Province; and that three-fifths of the net produce of the said Territorial and other Revenues now at the disposal of the Crown within this Province, shall be paid over to the account of the said Consolidated Revenue Fund; and also that during the life of Her Majesty, and for five years after the demise of Her Majesty, the remaining two-fifths of the net produce of the said Territorial and other Revenues now at the disposal of the Crown within this Province, shall be also paid over in like manner to the account of the said Consolidated Revenue Fund.

Crown, while the sums in the said Schedules remain payable.

VII. And be it enacted, That the consolidation of the Duties and Revenues of this Province, shall not be taken to affect the payment out of the said Consolidated Revenue Fund of any sum or sums heretofore charged upon the rates and duties now raised, levied and collected, or to be raised, levied and collected, to and for the use of either of the former Provinces of Upper or Lower Canada, or of this Province, for such time as shall have been appointed by the several Acts of the Legislature of the Province by which such charges were severally authorized.

Consolidation not to affect charges made upon the Revenue by Acts of the Provincial Legislatures.

VIII. And be it enacted, That it shall not be lawful for the Legislative Assembly to originate or pass any Vote, Resolution or Bill for the appropriation of any part of the said Consolidated Revenue Fund, or of any other tax or impost, to any purpose which shall not have been first recommended by a Message of the Governor to the said Legislative Assembly during the Session in which such Vote, Resolution or Bill shall be passed.

Legislative Assembly not to appropriate monies for any object not recommended by the Governor during the same Session.

IX. Provided always, and be it enacted, That the foregoing provisions of this Act shall have no force or effect until the fiftieth, fifty-first, fifty-second, fifty-third, fifty-fourth, fifty-fifth, fifty-sixth and fifty-seventh Sections of the Act of the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and the Schedules referred to in the said Sections, shall have been repealed.

The foregoing provisions of this Act suspended until sections 50, 51, 52, 53, 54, 55, 56 and 57 of the Union Act, (3 and 4 V. c. 35,) and the Schedules therein referred to, shall have been repealed.

SCHEDULE (A.)

OFFICES, &c.	Amount payable while the present Incumbent is in Office. Currency.	Amount to be allowed in future as Vacancies occur by Removal of the present Incumbents. Currency.
Governor General, to be in lieu of Fees, Seizures, and Forfeitures, £7,000 Sterling.	£ 7777 15 6	£ 7777 15 6
UPPER CANADA.		
One Chief Justice -	1666 13 4	1250 0 0
Four Puisné Judges, at £1,000 each -	4000 0 0	4000 0 0
One Vice Chancellor -	1250 0 0	1111 2 2
LOWER CANADA.		
One Chief Justice of Lower Canada -	1666 13 4	1250 0 0
Three Puisné Judges at Quebec, at £1,000 each -	3000 0 0	3000 0 0
One Chief Justice of Montreal or of Quebec, as the case may be -	1222 4 4	1200 0 0
Three Puisné Judges at Montreal, at £1,000 each -	3000 0 0	3000 0 0
One Judge at Three Rivers -	1000 0 0	500 0 0
One Judge of the District of St. Francis -	555 11 1	500 0 0
First Judge, District of Gaspé -	555 11 1	500 0 0
Second Judge, District of Gaspé -	500 0 0	500 0 0
Pensions to Judges -	2222 2 4	2222 2 4
Attorneys and Solicitors General, Salaries and Allowances for Contingencies -	3900 0 0	3900 0 0
Court of Vice-Admiralty -	472 4 4	470 0 0
Circuit Allowances to Judges -	1550 0 0	1550 0 0
Permanent Clerk attached to Crown Law Department -	300 0 0	300 0 0
Totals, Currency -	£ 34638 15 4	£ 33031 0 0

SCHEDULE (B.)

OFFICES, &c.	Amount payable while the present Incumbents are respectively in Office. Currency.	Amount to be allowed in future as Vacancies occur by Removal of the present Incumbents. Currency.
Governor's Secretary, and his Office -	£ 1925 8 6	£ 1536 0 0
Provincial Secretary, and his Office -	4423 1 10	4242 0 0
Registrar's Office, to merge in the Provincial Secretary's Office after the present Incumbency -	1083 6 6	650 0 0
Receiver General's Office -	2300 8 8	2056 0 0
Inspector General, and his Office -	4022 13 4	3856 0 0
Executive Council Office -	2922 4 4	2637 0 0
Board of Management of Public Works -	2094 17 7	2000 0 0
Emigrant Agent -	752 4 2	752 4 2
Pensions -	5555 11 1	5555 11 1
Indian Annuities -	6666 0 0	6666 0 0
Contingencies of Public Offices -	7500 0 0	7500 0 0
Totals, Currency -	£ 39245 16 0	£ 37450 15 3

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.

PROVINCIAL STATUTE

OF

CANADA,

ENACTED by Her Most Excellent Majesty, Our Sovereign Lady VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of An Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth years of Her Majesty's Reign, intituled, "*An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

VOL. II. 2nd Sess. 2nd Parlt. Continued.

RESERVED ACT.



MONTREAL:

PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Anno Domini, 1847.

PROVINCIAL STATUTE

OF

CANADA.

ANNO REGNI NONO

VICTORIÆ,

DEI GRATIÂ BRITANNIARUM REGINÆ.

HIS EXCELLENCY THE RIGHT HONORABLE

CHARLES MURRAY, EARL CATHCART, K. C. B.

GOVERNOR GENERAL.

BEING THE SECOND SESSION OF THE SECOND PROVINCIAL PARLIAMENT OF
CANADA.

RESERVED ACT

To which the ROYAL ASSENT was subsequently promulgated by His Excellency JAMES,
EARL OF ELGIN AND KINGARDINE, K. T. &c. &c. &c. Governor General.



ANNO NONO
VICTORIÆ REGINÆ.

CAP. CXV.

An Act to incorporate *La Banque des Marchands*.

Reserved for the signification of Her Majesty's pleasure, 9th June, 1846.~

The Royal Assent given by Her Majesty in Council on the 22d day of November, 1847 ; and Proclamation made thereof by His Excellency JAMES, EARL OF ELGIN AND KINCARDINE, in the Canada Gazette of the 8th January, 1848.

WHEREAS the great and rapidly increasing commerce and business of the City of Montreal, and of the Province, make it expedient for the public good that another Bank should be established, having its Chief Seat of Business in the said City, and having like powers and privileges with other Incorporated Banks in this Province ; and whereas the persons hereinafter mentioned have prayed that they, and such persons as may hereafter be associated with them, may be incorporated for the purpose of establishing such Bank: Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Augustin Perrault, Olivier Berthelet, Hubert Paré, A. LaRocque, Joseph Boulanger, D. Masson, François Perrin, Desmarteau and Marchand, Jean Bruneau, Pierre Cadieux, Henry Meyer, Louis Boyer, Charles Wilson, C. LaRocque, Fleury T. St. Jean, E. Poudrette, Joseph Poudrette, Hardoin Lionais, J. B. Beaudry, J. S. Beaudry, L. Kelleny, E. J. V. Hudon, Amable Prevost, and such persons as may, under the provisions of this Act, be associated with them for the purposes thereof, and their several and respective heirs, executors, administrators, curators, successors and assigns, shall be, and they are hereby constituted and declared to be a Corporation, body politic and corporate, by the name of *La Banque des Marchands*, and shall so continue and have succession until the first day of June, which will be in the year of Our Lord, one thousand eight hundred and sixty-two, and shall and may by the said name be able and capable in law to sue, be sued, implead and be impleaded, answer and be answered unto, defend and be defended, in all Courts and places whatsoever ; and shall also be capable in law to purchase, acquire, hold and enjoy, and retain to them and their successors, lands and tenements, real or immoveable estate, for the convenient conduct and management of the business of the said Corporation, not exceeding the yearly value of one thousand pounds, current money of this Province, and for no other purpose ; and may sell, alienate and dispose of such lands, tenements, real or immoveable estate, and purchase and acquire others in their stead, for the same purpose, not exceeding

Preamble.

Certain persons incorporated.

Corporate name and powers.

Real Estate.

Common Seal. exceeding the yearly value aforesaid, and may have a Common Seal, and may change and alter the same at their pleasure, and may also ordain, establish, and put in execution such By-laws, Ordinances and Regulations, (the same not being contrary to the present Act, or to any laws in force in this Province,) as may appear to them necessary or expedient for the management of the said Corporation (which By-laws, Ordinances and Regulations shall be made by the Directors who may hereafter be appointed, and shall be submitted to the Shareholders in the said Corporation for their approval and confirmation, at a General Meeting called for that purpose, to be held in the manner hereinafter mentioned,) and shall and may do and execute, by the name aforesaid, all and singular the other matters and things touching the management of the business of the said Corporation, which to them shall or may appertain to do, subject nevertheless to the rules and regulations, limitations and provisions hereinafter prescribed and established.

Capital, and number of Shares. II. And be it enacted, That the Capital Stock of the said Bank hereby incorporated and established shall not exceed the sum of one hundred and fifty thousand pounds, current money aforesaid, divided into six thousand shares of twenty-five pounds each, which shares shall be, and the same are hereby vested in the several persons who shall subscribe therefor, their successors and assigns, according to the shares and interests which they may respectively subscribe for, purchase or acquire.

In whom vested.

Books of subscription to be opened in Montreal. III. And be it enacted, That for the purpose of raising the said amount of Capital Stock, it shall be lawful for the persons hereby incorporated as aforesaid, or for any seven or more of them, to cause Books of Subscription to be opened in the said City of Montreal, for receiving the signatures of persons willing to become Shareholders in the said Corporation, and for this purpose they shall be held and bound to give public notice, during at least four successive weeks, in one or more of the public newspapers published in the said City of Montreal, of the time and place at which such Books will be opened and ready for receiving signatures as aforesaid, and of the persons by them authorized to receive such subscriptions; and that so soon as one half the amount of the said Capital Stock shall have been so subscribed for as aforesaid, it shall be lawful for the said persons, or for those among them under whose superintendence the said Books of Subscription shall have been opened, by an advertisement inserted during at least three weeks in one or more of the public newspapers published in the said City of Montreal, to call a Meeting of the Subscribers, whose signatures shall appear in the said Books, for the purpose of electing eleven Directors for the management of the affairs of the said Corporation until the First Monday in June, then next ensuing, and such election shall be had and conducted under the provisions hereinafter made with respect to the Annual Election of Directors of the said Corporation; Provided always, that no Bill or Note for any sum whatever shall be issued or put into circulation by the said Corporation, until fifty thousand pounds of the Capital Stock of the said Bank shall have been actually paid in, and shall be held by and in the actual possession of the said Corporation, in Gold or Silver Coin current in this Province: And provided always, that a further sum of twenty-five thousand pounds shall be paid in within three calendar months after the day upon which the said Corporation shall commence issuing Notes, by three equal instalments of eight thousand three hundred and thirty-three pounds, six shillings and eight pence each, payable at intervals not exceeding thirty days.

Notice.

Meeting to be called as soon as one half the Stock is subscribed for.

Proviso: no notes to issue until £50,000 of the Capital is paid in.

Proviso: Additional payment, within three months or thereafter.

IV. And be it enacted, That the Capital Stock of the said Corporation shall be paid in by the Shareholders in the manner following, that is to say : five per cent. at the time such share shall be subscribed for, and the remainder by instalments, not exceeding ten per cent. on every such share, at such time and place as the said Directors shall appoint, by an advertisement inserted in one or more of the public newspapers published in the said City of Montreal, during at least thirty days previous to the time at which the payment of such instalments respectively shall be required : Provided always, that the whole of the said Capital Stock shall be called in and paid by the said Shareholders respectively, within five years from the passing of this Act ; and all executors, curators and administrators, who shall pay in any instalment due by the estate or succession which they shall respectively represent, in obedience to any call made to that effect in the manner aforesaid, shall be and they are hereby respectively indemnified.

Capital to be paid up by instalments.

Proviso : the whole shall be paid up within five years.
Indemnification of Executors, &c.

V. And be it enacted, That if any Shareholder or Shareholders shall refuse or neglect to pay any or either of the instalments upon his, her or their shares of the said Capital Stock, at the time or times required by public notice as aforesaid, such Shareholder or Shareholders shall incur a forfeiture, to the use of the said Corporation, of a sum of money equal to ten per centum on the amount of such shares ; and moreover, it shall be lawful for the Directors of the said Corporation (without any previous formality, other than thirty days of public notice of their intention) to sell at public auction the said shares, or so many of the said shares as shall, after deducting the reasonable expenses of the same, yield a sum of money sufficient to pay the unpaid instalments due on the remainder of the said shares and the amount of forfeitures incurred upon the whole ; and the President or Vice-President, or Cashier of the said Corporation, shall execute the transfer to the purchaser of the shares of stock so sold, and such transfer, being accepted, shall be as valid and effectual in law as if the same had been executed by the original holder or holders of the shares of stock thereby transferred : Provided always, that nothing in this section contained shall be held to debar the Directors, or the Shareholders, at a General Meeting, from remitting, either in whole or in part, and conditionally or unconditionally, any forfeiture incurred by the non-payment of instalments as aforesaid.

Penalty on Shareholders not paying instalments when called in.

Enforcement of penalty.

Proviso : Forfeiture may be remitted.

VI. And be it enacted, That the Chief place, or Seat of Business of the said Corporation, shall be in the City of Montreal aforesaid ; but it shall and may be lawful for the Directors of the Corporation to open and establish in other Cities, Towns and places in this Province, Branches or Offices of Discount and Deposit of the said Corporation, under such rules and regulations for the good and faithful management of the same as to the said Directors shall, from time to time, seem meet, and shall not be repugnant to any Law of this Province, to this Act, or to the By-laws of the said Corporation.

Chief seat of business to be at Montreal ; but branches may be established.

VII. And be it enacted, That for the management of the affairs of the said Corporation, there shall be eleven Directors, who shall be annually elected by the Shareholders of the Capital Stock of the said Corporation, at a General Meeting of them to be held annually on the First Monday in June, beginning on the First Monday in June in the year one thousand eight hundred and forty-seven, at which meeting the Shareholders shall vote according to the rule or scale of votes hereinafter established ; and the Directors elected by a majority of votes given in conformity to such rule or scale, shall be capable of serving as Directors for the ensuing twelve months, and at their first

Eleven Directors to be chosen annually.

Votes.

Term of office.

Election of President and Vice-President.

Vacancies how filled until the next annual election.

Proviso : qualification of Directors.

Proviso as to re-election of part of the Directors.

Failure of annual election how remedied.

Power of Directors to inspect books, &c.
Proviso.

Quorum of Directors.

Power of a majority who shall preside at meetings.

Vote of person presiding.

By-Laws how made and confirmed.

Proviso : By-laws subject to confirmation by stockholders.

first Meeting after such election, shall choose out of their number a President and a Vice-President, who shall hold their offices, respectively, during the same period ; and, in case of a vacancy occurring in the said number of eleven Directors, the remaining Directors shall fill the same by election from among the Shareholders, and the Director so elected shall be capable of serving as a Director until the next Annual General Meeting of the Shareholders ; and if the vacancy occurring in the said number of eleven Directors shall also cause the vacancy of the office of President or of Vice-President, the Directors, at their first Meeting, after their number shall have been completed as aforesaid, shall fill the vacant office by choice or election from among themselves, and the Director so chosen or elected shall fill the office to which he shall be so chosen or elected until the next General Annual Meeting of the Shareholders : Provided always, that each of the Directors shall be the holder and proprietor in his own name of not less than twenty shares of the Capital Stock of the said Corporation, wholly paid up, and shall be a natural born, or naturalized subject of Her Majesty, and shall have resided seven years in Canada, and shall for three consecutive years have been and be actually domiciled in the said City of Montreal, or within seven miles thereof ; And provided also, that not less than six nor more than seven of the Directors in office at the period of each Annual Election, shall be re-elected for the next ensuing twelve months.

VIII. And be it enacted, That if at any time it shall happen that an election of Directors shall not be made or take effect on the day fixed by this Act, the said Corporation shall not be deemed or taken to be thereby dissolved, but it shall be lawful at any subsequent time to make such election at a General Meeting of the Shareholders to be duly called for that purpose, and the Directors in office when the election ought to have been had shall remain so until it shall be had.

IX. And be it enacted, That the Books, Correspondence and Funds of the Corporation shall at all times be subject to the inspection of the Directors ; but no Shareholder, not being a Director, shall inspect or be allowed to inspect the account or accounts of any person or persons dealing with the Corporation.

X. And be it enacted, That at all Meetings of the Directors of the said Corporation, not less than five of them shall constitute a Board or *quorum* for the transaction of business ; and a majority of such *quorum* may exercise the powers of the Board ; and at the said Meetings, the President, or in his absence the Vice-President, or in their absence one of the Directors present, to be chosen *pro tempore*, shall preside ; and the President, Vice-President, or President *pro tempore* so presiding, shall not vote unless the votes be equally divided on any question, in which case he shall have a casting vote.

XI. And be it enacted, That it shall and may be lawful for the Directors of the said Corporation from time to time to make and enact By-laws, Rules and Regulations (the same not being repugnant to this Act, or to the laws of this Province,) for the proper management of the affairs of the said Corporation, and from time to time to alter or repeal the same, and others to make and enact in their stead ; Provided always, that no By-law, Rule or Regulation so made by the Directors, shall have force and effect until the same shall, after six weeks' public notice, have been confirmed by the Shareholders at an Annual General Meeting, or at a Special General Meeting called for that purpose.

XII. And be it enacted, That no Director of the Corporation hereby constituted, shall, during the period of his services, act as a private banker; nor shall any Director other than the President be entitled to any salary or emolument for his services as a Director, but the President may be compensated for his services as President, either by an annual vote of a sum of money by the Shareholders at their Annual General Meetings, or by a fixed salary; and in the latter case, for the purpose of securing to the Corporation the undivided attention and services of the President, it shall be lawful for the Directors, if they see fit, to choose and appoint annually from among themselves, a person duly qualified who shall be President of the Corporation, and to award to him such remuneration for his services as they in their judgment shall see fit; any thing hereinbefore contained to the contrary notwithstanding.

Directors not to act as private Bankers. Compensation allowed to President only.

XIII. And be it enacted, That the Directors of the said Corporation shall have power to appoint such Cashiers, Officers, Clerks and Servants under them as shall be necessary for conducting the business of the Corporation, and to allow reasonable compensation for their services respectively; and shall also be capable of exercising such power and authority for the well governing and ordering of the affairs of the Corporation as shall be prescribed by the By-laws thereof; Provided always, that before permitting any Cashier, Officer, Clerk or Servant of the Corporation to enter upon the duties of his office, the Directors shall require every such Cashier, Officer, Clerk or Servant, to give bonds to the satisfaction of the Directors; that is to say: every Cashier, in a sum not less than three thousand pounds, current money of Canada, and every other Officer, Clerk or Servant, in such sum of money as the Directors consider adequate to the trust to be reposed, with conditions for good and faithful behaviour.

Directors to appoint officers: other powers.

Proviso: Security to be given by officers.

Amount of security.

XIV. And be it enacted, That it shall be the duty of the Directors to make half-yearly dividends of so much of the profits of the Corporation as to them shall appear advisable; and such dividends shall be payable at such place or places as the Directors shall appoint, and of which they shall give public notice thirty days previously; Provided always, that such dividends shall not in any manner lessen or impair the Capital Stock of the Corporation.

Dividends to be declared half yearly.

Proviso: Capital not to be impaired.

XV. And be it enacted, That a General Meeting of the Shareholders of the Corporation shall be held in the City of Montreal on the First Monday in the month of June in every year during the continuance of this Act, for the purpose of electing Directors, in the manner hereinbefore provided, and for all other general purposes touching the affairs and the management of the affairs of the Corporation; and at each of the said Annual General Meetings, the Directors shall submit a full and clear statement of the affairs of the Corporation, containing on the one part, the amount of the Capital Stock paid in, the amount of the Notes of the Bank in circulation, and net profits in hand, the balances due to other Banks and Institutions, and the Cash deposited in the Bank, distinguishing deposits bearing interest from those not bearing interest, and, on the other part, the amount of Current Coins and Gold and Silver Bullion in the vaults of the Bank, the value of buildings, and other real estate belonging to the Bank, the balances due to the Bank from other Banks and Institutions, and the amount of debts owing to the Bank, including and particularising the amounts so owing upon Bills of Exchange, Discounted Notes, Mortgages and *hypothèques*, and other securities; thus exhibiting on the one hand the liabilities of, or the debts due by the Bank, and on the other hand the assets and resources thereof; and the said statement shall also exhibit the rate and amount of the then last dividend declared by the Directors, the amount of profits received at the time of declaring such dividend, and the amount of debts to the Bank over-

Annual General Meetings appointed.

Statements to be submitted by the Directors at such meetings.

Particulars required in such statements.

due and not paid, with an estimate of the loss which may probably be incurred from the non-payment of such debts.

Ratio of Votes
for shares.

Shareholders
may vote by
proxy.

Proviso:
Shares must
have been
held for a cer-
tain time.

Proviso as to
joint holders
of Shares.

Aliens not to
vote, &c.

Officers of the
Bank not to
vote.

Special Gene-
ral Meetings
how called.

Case of pro-
posed removal
of a President,
&c. provided
for.

XVI. And be it enacted, That the number of votes which the Shareholders of the said Corporation shall respectively be entitled to give at their meetings, shall be according to the following scale, that is to say: For one share and not more than two, one vote; for every two shares above two, and not exceeding ten, one vote, making five votes for ten shares; for every four shares above ten, and not exceeding thirty, one vote, making ten votes for thirty shares; for every six shares above thirty, and not exceeding sixty, one vote, making fifteen votes for sixty shares; and for every eight shares above sixty, and not exceeding one hundred, one vote, making twenty votes for one hundred shares; and no Shareholder shall be entitled to give a greater number of votes than twenty; and it shall be lawful for absent Shareholders to give their votes by proxy, such proxy being also a Shareholder, and being provided with a written authority from his constituent or constituents, in such form as shall be established by a By-law, and which authority shall be lodged in the Bank; Provided always, that a share or shares of the Capital Stock of the said Corporation that shall have been held for a less period than three calendar months, immediately prior to any meeting of the Shareholders, shall not entitle the holder or holders to vote at such meetings, either in person or by proxy; Provided also, that where two or more persons are joint holders of shares, it shall be lawful that one only of such joint holders be empowered by Letter of Attorney from the other joint holder or holders, or a majority of them, to represent the said shares, and vote accordingly: And provided also, and it is hereby enacted, that no Shareholder who shall not be a natural born, or naturalized subject of Her Majesty, or who shall be subject of any foreign Prince or State, shall, either in person or by proxy, vote at any meeting whatever of the Shareholders of the said Corporation, or shall assist in calling any meeting of the Shareholders; any thing in this Act to the contrary notwithstanding.

XVII. And be it enacted, That no -Cashier, Bank-Clerk, or other Officer of the Corporation, shall either vote in person or by proxy at any meeting for the election of Directors, or hold a proxy for that purpose.

XVIII. And be it enacted, That any number, not less than twenty, of the Shareholders of the said Corporation, who together shall be proprietors of at least five hundred and fifty shares of the paid up Capital Stock of the Corporation, by themselves or proxies, or the Directors of the Corporation, or any seven of them, shall respectively have power at any time to call a Special Meeting of the Shareholders of the Corporation, to be held at their usual place of meeting in the City of Montreal, upon giving six weeks previous public notice thereof, and specifying in such notice the object or objects of such meeting: And if the object of any such Special General Meeting be to consider of the proposed removal of the President or Vice-President, or a Director or Directors of the Corporation, for mal-administration or other specified and apparently just cause, then, and in such cases, the person or persons whom it shall be proposed to remove, shall, from the day on which the notice shall first be published, be suspended from the duties of his or their office or offices, and if it be the President or Vice-President whose removal shall be proposed as aforesaid, his office shall be filled up by the remaining Directors, (in the manner hereinbefore provided, in the case of a vacancy occurring in the office of President or Vice-President,) who shall choose or elect a Director to serve as such President or Vice-President during the time such suspension shall continue or be undecided upon.

XIX. And be it enacted, That the shares of the Capital Stock of the said Corporation shall be held and adjudged to be personal estate, and be transmissible accordingly, and shall be assignable and transferable at the Bank, according to the form of Schedule A annexed to this Act; but no assignment or transfer shall be valid and effectual unless it be made and registered in a Book or Books to be kept by the Directors for that purpose, nor until the person or persons making the same shall previously discharge all debts actually due by him, her or them, to the Corporation, which may exceed in amount the remaining Stock (if any) belonging to such person or persons; and no fractional part or parts of a share, or other than a whole share, shall be assignable or transferable; and when any share or shares of the said Capital Stock shall have been sold under a Writ of Execution, the Sheriff by whom the Writ shall have been executed shall, within thirty days after the sale, leave with the Cashier of the said Bank or Corporation an Attested Copy of the Writ, with the Certificate of such Sheriff endorsed thereon, certifying to whom the sale has been made; and thereupon (but not until after all debts due by the original holder or holders of the said shares to the Corporation shall be discharged as aforesaid,) the President or Vice-President, or Cashier of the Corporation, shall execute the transfer of the share or shares so sold, to the purchaser, and such transfer being duly accepted shall be to all intents and purposes as valid and effectual in law as if it had been executed by the original holder or holders of the said shares; any law or usage to the contrary notwithstanding.

Shares to be personal property; and how transferable.

Debts to the Bank to be first discharged.

Whole shares only transferable.

Shares taken in execution, how dealt with.

XX. And be it enacted, That the said Corporation hereby constituted shall not, either directly or indirectly, hold any lands or tenements (save and except such as by the first section of this Act they are specially authorized to acquire and hold,) or any ships or other vessels, or any share or shares of the Capital Stock of the Corporation, nor in any other Bank in this Province; nor shall the said Corporation, either directly or indirectly, lend money or make advances upon the security, mortgage or hypothecation (*hypothèque*) of any lands or tenements, or of any ships or other vessels, nor upon the security or pledge of any share or shares of the Capital Stock of the Corporation, or of any goods, wares or merchandize; nor shall the said Corporation, either directly or indirectly, raise loans of money, or deal in the buying, selling or bartering of goods, wares or merchandize, or engage or be engaged in any trade whatever, except as Dealers in Gold and Silver Bullion, Bills of Exchange, discounting of Promissory Notes and negotiable security, and in such trade generally as legitimately appertains to the business of Banking: Provided always, that the said Corporation may take and hold mortgages and *hypothèques* on real estates and property in this Province, by way of additional security for debts contracted to the Corporation in the course of their dealings.

What property only the Corporation may hold.

Not to lend on hypothec or pledge.

To use no other trade than banking.

Provide as to *hypothèques*.

XXI. And be it enacted, That the aggregate amount of discount and advances made by the said Corporation upon commercial paper or securities bearing the name of any Director or Officer, or the co-partnerships' name or firm of any Director of the said Corporation, shall not at any one time exceed one third of the total amount of discounts or advances made by the Corporation at the same time.

Limit of Discount to Directors, &c.

XXII. And be it enacted, That it shall and may be lawful for the said Corporation to allow and pay interest (but not exceeding the legal rate of interest in this Province) upon Monies deposited in the Bank, and also, that it shall and may be lawful for the Corporation, in discounting Promissory Notes or other negotiable securities, to receive or retain discount thereon, at the time of the discounting or negotiating the same; any law or usage to the contrary notwithstanding.

Rate of interest, &c.

Discount.

Obligations of the Bank how to be executed and assigned over.

Bills or notes.

Proviso: an officer may be deputed to sign notes, &c.

Notes where to be redeemed.

And if issued by Branch Banks.

Suspension of payment for a certain interval, to be a forfeiture of this charter.

Total amount of notes in circulation for less than £1 each, limited.

Proviso: No note to be under £1.

XXIII. And be it enacted, That the Bonds, Obligations and Bills Obligatory and of Credit, of the said Corporation, under its Common Seal, and signed by the President or Vice-President, and countersigned by a Cashier thereof, which shall be made payable to any person or persons, shall be assignable by endorsement thereon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in the several assignees, successively, and to enable such assignee or assignees to bring and maintain an action or actions thereupon in his, her or their own name or names; and signification of any such assignment by endorsement shall not be necessary, any law or usage to the contrary notwithstanding: and Bills and Notes of the Corporation, signed by the President or Vice-President, and countersigned by a Cashier thereof, promising the payment of money to any person or persons, his, her or their order, or to the bearer, though not under the Seal of the Corporation, shall be binding and obligatory upon the same, in like manner, and with the like force and effect as they would upon any private person or persons, if issued by him, her or them, in his, her or their private or natural capacities, and shall be assignable or negotiable in the like manner as if they were so issued by such private person or persons: Provided always, that nothing in this Act contained shall be held to debar the Directors of the Corporation from authorizing or deputing from time to time any Cashier or Officer of the Corporation, or any Director, other than the President or the Vice-President, or any Cashier, Manager or Local Director of a Branch or Office of Discount and Deposit of the said Corporation, to sign, and any Cashier, Accountant or Book-keeper of the said Corporation, or of any Branch or Office of Discount and Deposit thereof, to countersign, the Bills and Notes of the said Corporation intended for general circulation, and payable to order or to bearer, on demand.

XXIV. And be it enacted, That the Notes or Bills of the said Corporation made payable to order or to bearer, and intended for general circulation, whether the same shall issue from the Chief place or Seat of Business of the Corporation in the City of Montreal, or from any of the Branches, shall bear date at the place of issue and not elsewhere, and shall be payable on demand in specie at the same place of issue; and that each and every Office of Discount and Deposit hereafter to be established, under the management or direction of a Local Board of Directors, shall be considered and held to be a Branch Bank, and subject to the restriction as to the issuing and redemption of Notes provided in this Act.

XXV. And be it enacted, That a suspension by the said Corporation (either at the Chief place or Seat of Business in the said City of Montreal, or at any of their Branches or Offices of Discount and Deposit at other places in this Province) of payment on demand, in specie, of the Notes or Bills of the said Corporation, payable on demand, shall, if the time of suspension extend to sixty days, consecutively, or at intervals, within any twelve consecutive months, operate as and be, a forfeiture of this Act of Incorporation, and all and every the privileges hereby granted.

XXVI. And be it enacted, That the total amount of the Notes or Bills of the said Corporation, being for a less sum than one pound current money of Canada, each, that shall be and may have been issued and put in circulation, shall not exceed at any one time one fifth of the amount of the Capital Stock of the Corporation then paid up: Provided always, that no Notes under the nominal value of five shillings shall at any time be issued or put in circulation by the Corporation, nor shall any further limitation by the Legislature of the total amount of Notes to be issued or reissued by the said Corporation, be held to be any infringement upon the privileges hereby granted.

XXVII.

XXVII. And be it enacted, That the total amount of the debts which the said Corporation shall at any time owe, whether by Bond, Bill, Note, or otherwise, shall not exceed three times the aggregate amount of the Capital Stock paid in and the deposits made in the Bank in specie and government securities for money; and at no one period, after the passing of this Act, shall the Notes and Bills payable on demand and to bearer, exceed the amount of the actually paid up Capital Stock of the said Corporation; and in case of excess, the said Corporation shall forfeit this Act of Incorporation, and all the privileges hereby granted, and the Directors under whose administration the excess shall happen, shall be liable, jointly and severally, for the same, in their private capacities, as well to the Shareholders as to the holders of the Bonds, Bills and Notes of the Corporation; and an action or actions in this behalf may be brought against them, or any of them, and the heirs, executors, and administrators and curators of them, or any of them, and be prosecuted to judgment and execution according to law, but such action or actions shall not exempt the Corporation or their lands, tenements, goods or chattels from being also liable for such excess: Provided always, that if any Director present at the time of contracting any such excess of debt, do forthwith, or, if any Director absent at the time of contracting any such excess of debt, do within twenty-four hours after he shall have obtained a knowledge thereof, enter on the Minutes or Register of Proceedings of the Corporation, his Protest against the same, and do, within eight days thereafter, publish such Protest in at least two newspapers published in the City of Montreal, such Director may thereby and not otherwise, exonerate and discharge himself, his heirs, executors and administrators or curators from the liability aforesaid; any thing herein contained, or any law to the contrary notwithstanding: Provided always, that such publication shall not exonerate any Director from his liability as a Shareholder.

Total amount of liabilities limited.

Of notes on demand and to bearer.

Penalty for excess.

Directors liable.

Exception in favor of Directors giving public notice of excess.

Proviso.

XXVIII. And be it enacted, That in the event of the property and assets of the Corporation hereby constituted, becoming insufficient to liquidate the liabilities and engagements or debts thereof, the Shareholders of the Corporation, in their private or natural capacities, shall be liable and responsible for the deficiency, but to no greater extent than to double the amount of the paid up Capital, that is to say: that the liability and responsibility of each Shareholder shall be limited to the amount of his or her share or shares of the said paid up Capital Stock, and a sum of money equal in amount thereto: Provided always, that nothing in this section contained shall be construed to alter or diminish the additional liabilities of the Directors of the Corporation hereinbefore mentioned and declared.

Personal liability of Shareholders limited.

Proviso.

XXIX. And be it enacted, That besides the detailed statement of the affairs of the said Corporation hereinbefore required to be laid before the Shareholders thereof, at their Annual General Meetings, the Directors shall make up and publish, on the First days of March and September in every year, Statements of the Assets and Liabilities of the Corporation, in the form of the Schedule B hereunto annexed, shewing, under the heads specified in the said form, the average of the amount of the Notes of the Corporation and other Liabilities, at the termination of each month during the period to which the Statement shall refer, and the average amount of Specie and other Assets that at the same time were available to meet the same; and it also shall be the duty of the Directors to submit to the Governor, Lieutenant-Governor, or person administering the Government of this Province, a copy of each of such half yearly Statements, and if by him required to verify all or any part of the said Statements, the said Directors shall verify the same by the production of the weekly or monthly Balance-sheets from which the

Additional Statement to be published by Directors, half-yearly.

Information to be furnished to the Governor, &c.

the said Statements shall have been compiled; and furthermore, the said Directors shall from time to time, when required, furnish to the said Governor, Lieutenant-Governor, or person administering the Government of this Province, such further information respecting the State and Proceedings of the Corporation, and of the several Branches and Offices of Discount and Deposit thereof, as such Governor, Lieutenant-Governor, or person administering the Government of this Province may reasonably see fit to call for:

Proviso :
Certain por-
tions of such
information to
be confiden-
tial.

Provided always, that the weekly and monthly Balance-sheets, and the further information that shall be so produced and given, shall be held by the said Governor, Lieutenant-Governor, or person administering the Government of this Province, as being produced and given in strict confidence, that he shall not divulge any of the contents of the said weekly or monthly Balance-sheets, or of the information that shall be so given :

Proviso as
to private
accounts.

And provided also, that the Directors shall not, nor shall any thing herein contained, be construed to authorize them, or any of them, to make known the private account or accounts of any person or persons whatever having dealings with the Corporation.

Bank not to
lend to foreign
powers.

XXX. And be it enacted, That it shall not be lawful for the Corporation hereby constituted, at any time whatever, directly or indirectly, to advance or lend to, or for the use of or on account of any foreign Prince, Power or State, any sum or sums of money, or any securities for money ; and if such unlawful advance or loan be made, then and from thenceforth the said Corporation shall be dissolved, and all the powers, authorities, rights, privileges and advantages hereby granted shall cease and determine; any thing in this Act to the contrary notwithstanding.

Penalty.

In what
papers notices
shall be pub-
lished.

XXXI. And be it enacted, That the several public notices by this Act required to be given, shall be given by advertisement in two or more of the newspapers published in the City of Montreal, and the Canada Gazette, or such other Gazette as shall be generally known and accredited as the Official Gazette for the publication of Official Documents and Notices emanating from the Civil Government of this Province, shall be one.

Forging or al-
tering notes,
&c, of the
Bank, to be
felony.

XXXII. And be it enacted, That if any person or persons shall forge or counterfeit the Common Seal of the Corporation hereby constituted, or shall forge or counterfeit or alter any Bond, Obligation, Bill Obligatory or of Credit, or other Bill, or Note of the said Corporation, or any Indorsement or Indorsements thereon, with an intention to defraud the said Corporation, or any person or persons, body or bodies politic or corporate, or institution or institutions whomsoever and whatsoever, or shall offer or pass any forged, counterfeit or altered Bond, Obligation, Bill Obligatory or of Credit, or other Bill or Note of the said Corporation, or Indorsement or Indorsements thereon, or shall demand the money therein mentioned, knowing the same to be forged, counterfeit or altered, every such person, for every such offence, upon conviction thereof in due form of law, shall be deemed and adjudged to be guilty of felony.

Making plates,
tools, &c, for
forging notes,
&c, to be felo-
ny.

XXXIII. And be it enacted, That if any person shall engrave, form, make or mend any plate or plates, paper, rolling press or other tool, instrument or material devised, adapted or designed for stamping, or for making any false or counterfeit bill of exchange, promissory note, undertaking or order, for the payment of money, purporting to be the bill of exchange, promissory note, undertaking or order of the said Corporation, or of any of the Officers or persons engaged in the management of the affairs of the said Corporation, in the name or on the behalf thereof, or shall have in his possession any such plate or plates, engraven in any part, or any such paper, rolling press or other tool, instrument or material devised, adapted or designed as aforesaid, with the intent to use,

Or having the
same in pos-
session, except
for lawful
cause.

and

and employ the same, or to cause or permit the same to be used and employed in forging and making any such false and counterfeit bills of exchange, promissory notes, undertakings or orders, every person so offending shall be deemed and taken to be guilty of felony; and the proof that such plate, paper, rolling press, or other tool, instrument or material as aforesaid, was formed, made, engraved or mended by, or was in the possession of such person for some lawful purpose, shall lie upon him or her.

XXXIV. And be it enacted, That every person convicted of felony under this Act shall be punished by imprisonment at hard labour in the Provincial Penitentiary, for any time not less than seven years, or by imprisonment in any other gaol or place of confinement for any time not exceeding two years.

Punishment
for felonies
under this
Act.

XXXV. And be it enacted, That it shall and may be lawful to and for any one Justice of the Peace, on complaint made before him upon the oath of one credible person, that there is just cause to suspect that any one or more person or persons is or are, or hath or have been concerned in making or counterfeiting any such false bills of exchange, promissory notes, undertakings or orders as aforesaid, by Warrant under the hand of such Justice, to cause the dwelling house, room, workshop, out-house or other building, yard, garden or other place belonging to such suspected person or persons, or where any such person or persons shall be suspected of carrying on any such making or counterfeiting, to be searched; and if any such false bills of exchange, promissory notes, undertakings or orders, or any such plates, rolling presses or other tools, instruments or materials shall be found in the custody or possession of any person or persons whomsoever, not having the same by some lawful authority, it shall and may be lawful to and for any person or persons whomsoever, discovering the same, to seize, and he is and they are hereby authorized and required to seize such false or counterfeit bills of exchange, promissory notes, undertakings or orders, and such plates, rolling presses or other tools, instruments or materials, and to carry the same forthwith before a Justice of the Peace of the County or District, (or if more convenient, of the adjoining County or District,) in which the same shall be seized, who shall cause the same to be secured and produced in evidence against any person or persons who shall or may be prosecuted for any of the offences aforesaid, in some Court of Justice proper for the determination thereof, and the same, after being so produced in evidence, shall, by order of the Court, be defaced or destroyed, or otherwise disposed of as such Court shall direct.

Searches may
be made for
implements
used for
forging, &c.

They may be
detained, &c.

Such imple-
ments to be
destroyed.

XXXVI. And be it enacted, That nothing in this Act contained, shall in any manner derogate from or affect, or be construed to derogate from or affect the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any body or bodies politic or corporate, except in so far as the same may be specially derogated from or affected by the provisions of this Act.

Saving of cer-
tain rights.

XXXVII. And be it enacted, That this Act shall be held and taken to be a Public Act, and shall be judicially taken notice of and have the effect of a Public Act without being specially pleaded.

Public Act.

XXXVIII. And be it enacted, That this Act shall be and remain in force until the First day of June, which will be in the year of Our Lord, one thousand eight hundred and sixty-two, and from that time until the end of the then next Session of the Parliament of this Province, and no longer.

Duration of
this Act.

FORM OF SCHEDULE A

REFERRED TO IN THE NINETEENTH SECTION OF THE FOREGOING ACT.

For value received from I, (or we) of
of do hereby assign and transfer unto the said
Shares, (on each of which has been paid
pounds, shillings, Currency, amounting to the sum of
pounds, shillings,) in the Capital
Stock of *La Banque des Marchands*, subject to the rules and regulations of the said
Bank.

Witness my (or our) hand (or hands,) at the said Bank, this
day of in the year of our Lord, one thousand eight hundred and
(Signature,)

I (or we) do hereby accept the foregoing assignment of Shares
in the Stock of *La Banque des Marchands* assigned to me (or us) as before mentioned,
at the said Bank, this day of one thousand eight hundred and
(Signature,)

FORM OF SCHEDULE B

REFERRED TO IN THE TWENTY-NINTH SECTION OF THE FOREGOING ACT.

RETURN of the Average Amount of the LIABILITIES and ASSETS of *La Banque des Marchands*, during
the period from 1st to 18

LIABILITIES.	MONTH ENDING					
	30th Sep.	31st Oct.	30th Nov.	31st Dec.	31st Jan.	28th Feb.
	18	18	18	18	18	18
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Promissory Notes in circulation not bearing interest.....						
Bills of Exchange in circulation not bearing interest.....						
Bills and Notes in circulation bearing interest.....						
Balance due to other Banks.....						
Cash Deposits, not bearing interest.....						
Cash Deposits, bearing interest.....						
Total average Liabilities.....£						
ASSETS.						
Coin and Bullion.....						
Landed and other Property of the Bank.....						
Government Securities.....						
Promissory Notes or Bills of other Banks.....						
Balances due from other Banks.....						
Notes and Bills discounted, or other debts due to the Bank, not included under the foregoing heads.....						
Total average Assets.....£						

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.

1846,—9° VICTORIÆ,

SECOND SESSION, SECOND PARLIAMENT.

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